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This study reviews the tax developments in eighteen countries of Latin America during the calendar year 1978 and in effect by January 1, 1979. Pertinent legislation and rulings, as well as important judicial decisions, are highlighted in order to provide maximum coverage of the following areas:

Fiscal Policy
Promotion of Economic Development
Inflation-Generated Measures
Social Security Systems
Tax Administration
Special Situations

ARGENTINA

In the tax policy area, a substantial tax reform has been passed which includes numerous changes for certain taxpayers.

The tax on capital of enterprises has been amended by eliminating the exemptions from the capital tax when the capital belongs to a person or entity required to adjust their invested capital for income tax purposes. The change applies to fiscal years beginning on or after November 1, 1978. The tax on transfers of securities has been amended by eliminating the exemption from all other taxes for transfers of debt securities made by a person or entity required to adjust their invested capital for income tax purposes. This change applies to fiscal years ending on or after January 1, 1978.1

Several amendments have been introduced with respect to indexation, most of which are effective December 26, 1978. Technical

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amendments have been made to the income tax law to bring certain provisions in line with the recently-enacted monetary adjustment of invested capital. The revisions apply to: (1) amounts carried over to subsequent taxable years of certain limited deductions; (2) to the taxation of amounts deducted as promoted investments in prior years and which became disqualified for the tax benefit; and (3) to corporate reorganizations which in subsequent years fail to meet statutory requirements for non-recognition of gains, and to depreciation accounts. The new statute also revises rules on authority of the Executive Branch to apply tax treaties.²

Several amendments relating to monetary adjustment of certain amounts on account of inflation were introduced to the recently consolidated text of the Occasional Gains Tax Law. Carried over net losses are to be monetarily adjusted in accordance with the wholesale price index fixed in tables to be released monthly by the General Tax Bureau. Similar adjustment applies to occasional gains tax debts and refunds, and to the computation of taxable gains from real property previously used in business. The new statute also revises rules on authority of the Executive Branch to apply tax treaties.³

Amendments relating to monetary adjustment of certain amounts on account of inflation were introduced to the recently consolidated text of the tax on Capital of Enterprises Law. The purchase cost of fixed assets is to be monetarily adjusted in accordance with the wholesale price index fixed in tables to be released monthly by the General Tax Bureau.⁴

Changes relating to monetary adjustment of certain amounts on account of inflation were introduced to the recently consolidated text of the Added-Value Tax Law. In the event of sale of fixed assets (other than motor vehicles) held less than five years (three years under the old law), the tax credit taken is to be paid to the Treasury adjusted monetarily in accordance with the wholesale price index fixed in tables to be released monthly by the General Tax Bureau. The changes apply to assets acquired during fiscal years closed on or after December 26, 1978. Special rules govern application of the new rules to assets acquired earlier.⁵

Amendments relating to monetary adjustment of certain amounts on account of inflation were introduced to the recently consolidated text of the tax on Capital of Enterprises Law. The purchase cost of fixed assets is to be monetarily adjusted in accordance with the wholesale price index fixed in tables to be released monthly by the General Tax Bureau. The changes apply to assets acquired during fiscal years closed on or after December 26, 1978. Special rules govern application of the new rules to assets acquired earlier.⁵

³. Id.
⁴. Id.
⁵. Id.
text of the Tax on Net Worth Law. The purchase cost of real property
and of motor vehicles, airplanes, yachts, and the like, is to be mone-
tarily adjusted in accordance with the wholesale price index fixed in
tables to be released monthly by the General Tax Bureau. This
change applies from and includes the taxable year 1978.6

New legislation has been passed establishing a system of risk-
contract for the exploration and exploitation of oil deposits. Domestic
or foreign companies entering into such contracts with government-
owned oil enterprises shall receive a fee in cash and will be taxed
under the general rules unless they elect to claim the special treat-
ment established under the new statute. Such treatment consists in
100% depreciation in the first fiscal year, of assets used in the explo-
ration phase, and adjustment in accordance with the cost of living
index, of net operating losses. Any individual who, or legal entity
which, invests in the equity of domestic contractor companies may
deduct up to 100% of the amounts so invested from taxable income.
The foreign investment law does not apply to foreign capital invested
in a risk oil contract.7

For purposes of the tax on capital of corporations which substitutes
for the inheritance tax, debt balances for supplies and know-how on
behalf of the home office of an Argentine branch of a foreign company
are to be allowed as a liability. According to the Tax Court, the
Supreme Court of Justice rule, denying substance to contracts be-
tween foreign parent companies and wholly-owned Argentine subsi-
diaries, does not apply to the substitute inheritance tax.8

A new corporate fee has also been created. The Bureau charged
with supervising the formation and operation of legal entities has been
authorized to charge a fee for its services. The new fee is payable
by corporations upon their formation in the amount of 25,000 pesos,
and annually thereafter in fixed amounts commensurate with the
amount of paid-up capital. The new fee is payable between January
15 and March 31 each year. Late payments will be penalized by
adjusting the fixed fee according to the cost of living index change
from the month preceding the date in which the fee was due.9

Another significant reform in the tax policy area relates to li-
censing. The General Tax Bureau has ruled that where foreign

6. Id.
8. Decision 175 of May 19, 1977, Tax Court, In re Citroen Argentina, S.A.
9. Decree 1547 of July 14, 1978, as implemented by Resolution 591 of
company A has licensed an Argentine company for the use throughout Latin America of trademarks of which such foreign company A is a licensee throughout the world by license of foreign company B, foreign company A is carrying out an economic activity within Argentina without a branch. The remuneration is considered as income from Argentine sources in its entirety. Consequently, the Argentine payor is required to withhold and pay 45% of the gross fees as final tax for the account of the foreign licensor A. If the amount of the fee is subject to final computation after payment of the tax, such tax may be recomputed.\textsuperscript{10}

Within the area of promotion of economic development, fixed stamp tax rates were adjusted. The General Tax Bureau has adjusted the rates of the Stamp Tax Law for the six-month period from August 1, 1978, to January 31, 1979, as required by that statute.\textsuperscript{11}

Gains from the sale of lumber from plantations financed by tax-promoted investments are to be monetarily adjusted in accordance with the wholesale price index fixed by the General Tax Bureau. The new rules apply retroactively from December 14, 1977.\textsuperscript{12}

With respect to inflation-generated measures, a new chapter entitled “Adjustment for Inflation” has been added to the income tax law. All associations and companies organized in the country, sole proprietorships owned by resident individuals, and branches of foreign companies are required to adjust their owned invested capital in the terms fixed by the new law. The adjustment applies from and includes the first fiscal year closed on or after January 1, 1978, unless the taxpayer elects to begin the adjustment in the first fiscal year closed on or after January 1, 1979. The adjustment consists of multiplying the invested capital (assets exclusive of real and personal property, amortizable breeders, intangibles, and standing or cut timber, less liabilities) by the change in the wholesale price index between that of the last month of the current fiscal year and that of the last month of the preceding fiscal year. Where the amounts excluded exceed the invested capital subject to adjustment, the excess is regarded as a gain attributable to inflation and is to be included in taxable income of the current fiscal year. Taxpayers required to adjust their invested capital for inflation are not entitled to enjoy an exemption from income tax on interest in term deposits, on gains from

\begin{itemize}
  \item \textsuperscript{10} Rev. Rul. 78-84, 1978.
  \item \textsuperscript{11} General Resolution 2065 of July 31, 1978.
  \item \textsuperscript{12} See note 2 supra.
\end{itemize}
the sale of debt securities, on interest from bank acceptances, and on gain from indexation of credits and foreign loans. All taxpayers are authorized to adjust the monetary value of net operating losses according to the changes in the wholesale price index.\(^3\)

As an inflation-generated measure and within the realm of the social security area, it is noteworthy that social security benefits as well as social security contributions by employees and employers were adjusted in accordance with changes in the cost of living index. Indexation applies to benefits ninety days past due, and to amounts payable to the Social Security Institute which are over ninety days past due. Other systems of indexation for social security contributions were repealed.\(^4\)

Important changes have been introduced in tax administration law. The amendments relate to penalties such as imprisonment for tax evasion, reconstruction of income, submission of evidence before the Tax Court, structure and jurisdiction of the Tax Court, and updating of values expressed in pesos in accordance with the cost of living index change as of November 1 of each year. The new rules are to enter into effect ninety days after their publication in the Official Gazette.\(^5\)

The recently consolidated text of the Tax Procedure Law has been amended with respect to monetary adjustment on account of inflation. Amounts of tax past due and amounts to be refunded, including credits for added-value tax, are to be monetarily adjusted in accordance with the wholesale price index. Monetary adjustment may no longer apply to tax debts spontaneously paid. The Executive Branch is now authorized to temporarily apply tax treaties signed but not yet promulgated in order to avoid international double taxation. Most of the changes became effective on December 26, 1978.\(^6\)

Lastly, within the special situations area, Argentina has approved a treaty with Bolivia to avoid double taxation of income, gains, capital, or net worth. The treaty shall enter into effect on January 1 of the year following the exchange of ratification documents.\(^7\)

Under a recent amendment to the Technology Transfer Law, fixed fees charged by affiliated companies will be allowed to be paid

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13. See note 1 supra.
17. See note 2 supra.
at any time if the technology consists of basic engineering services, assistance for repairs, or technical training. Another amendment has created a registration fee equivalent to 1.5 per thousand of the economic value of the contract to be registered.\textsuperscript{18}

**Bolivia**

Concerning fiscal policy, a series of developments should be reported. The tax levied on exports of zinc, antimony, and lead has been temporarily suspended. The suspension shall apply as long as the international market price of these minerals remains below the amounts set forth by statute.\textsuperscript{19} In addition, the reduction by 50\% of the royalty tax on minerals, and the reduction of the tax levied on the basis of the official value of exported minerals for increased production in the terms provided by a 1974 statute have been extended to cover silver.\textsuperscript{20}

The sales tax has been overhauled by a new statute repealing the original creating statutes which set forth administrative rules. The new system intends to assure that the 5\% tax applies only to the value added in each transaction performed by registered taxpayers.\textsuperscript{21}

In order to aid tourism, the service tax has been revised by applying the 10\% rate only to agencies arranging foreign tours. Domestic travel arrangements are taxed at the 3\% rate. Under the changes, hotels, restaurants, real estate managing offices, telephone and teletype carriers, international passenger lines, travel agencies, and auto rentals, among others, are taxed at the 10\% rate. International freight carriers, radio and television stations, auditing and consulting firms, printing and photocopying enterprises, and any other enterprises not subject to a specific rate are taxed at a 3\% rate. Domestic transportation companies for passengers and parcels are taxed at the 2\% rate. Domestic freight companies and aerophotogrametric services are exempt.\textsuperscript{22} Also, a new traveling tax has been imposed in lieu of the tax in force since 1971. Diplomats, students, tourists, and certain workers are exempt if they meet the requirements set forth in a new statute.\textsuperscript{23}

\begin{footnotesize}
\begin{enumerate}
\item Law 21879 of September 19, 1978.
\item Decree-Law 15343 of March 7, 1978.
\item Supreme Decree 15600 of June 27, 1978.
\item Decree-Law 15440 of April 28, 1978.
\item Supreme Decree 15437 of April 28, 1978.
\end{enumerate}
\end{footnotesize}
A 1% tax has been placed on credits granted by banks operating within Cochabamba Department, as well as a 2 per thousand tax on funds transferred out of that Department.\textsuperscript{24}

Existing single taxes on light and dark tobacco cigarettes and all municipal excise taxes on cigarettes have been superseded by a new single tax levied ex-factory on the selling price. The rates are 142.69% for light tobacco cigarettes, and 59.34% for dark tobacco cigarettes.\textsuperscript{25}

Foreign loans represented by current account advances, overdrafts, or any other form of short or medium term credit are subject to tax at a 3% rate of the amount lent. Long-term loans, loans to finance importation of price-controlled goods, or exploration of Bolivian goods and services, loans to finance exploration and exploitation of mineral and oil deposits, and loans relating to housing, food industry, and pharmaceutical industry are exempt.\textsuperscript{26}

A production tax has been imposed on the 1977-1978 cotton crop. The tax applies at a 30% rate on the excess of the average selling price for the area where the cotton was produced, resulting in a cost of over U.S. $70 per hundred weight of cotton fiber.\textsuperscript{27}

The most significant occurrence in promotion of economic development was the granting of a duty break for manufacturing. Certain raw materials, equipment, machinery, and supplies imported by manufacturers, as well as the importation of complete plants, have been exempted from duties, while the duty on some finished goods which are of a kind adequately produced within the country has been increased.\textsuperscript{28}

With respect to social security systems, independent farm workers are to receive social security protection in case of illness and maternity under a program created in 1971 and recently implemented. Financing of the program includes a contribution by the worker to be fixed by the General Bureau for the Farm Workers Social Security.\textsuperscript{29}

Regarding special situations, under a new law which regulates insurance companies, foreign insurance companies are allowed to

\textsuperscript{24} Decree-Law 15358 of March 17, 1978.
\textsuperscript{25} Decree-Law 15471 of May 15, 1978.
\textsuperscript{26} Supreme Decree 15719 of August 11, 1978, as amended by Supreme Decree 15926 of October 27, 1978.
\textsuperscript{27} Supreme Decree 15911 of October 27, 1978.
\textsuperscript{28} Supreme Decree 15588 of June 2\textsuperscript{nd}, 1978.
\textsuperscript{29} Decree-Law 15697 of August 2, 1978.
establish branches within Bolivia, provided there is reciprocity with their home country. Companies currently operating within Bolivia must comply with the terms of the new law within 180 days from its publication.30

**Brazil**

Regarding tax policy, numerous important changes in taxation of income derived by resident individuals became effective January 1, 1979. The progressive rate of the tax has been increased to 55% on taxable income in excess of 1,400,000 cruzeiros; gains from sale of real property are now taxable on the excess over 4,000,000 cruzeiros; gains from the sale or redemption of short-term securities and stock will be subject to withholding at the source at a 10% rate on account of the tax determined in the return; royalties greater than 6,000 cruzeiros per month will also be subject to withholding of tax at a 10% rate on account of the tax determined in the return; rules on investment incentives in common stocks, fishing and forestry training programs, and charitable contributions have been amended; income from certain fixed-term deposits will be subject to a 50% tax on the real yield thereof; and 200% of voluntary social security contributions may be deducted.31

The Tax System Coordinator has issued rules for the computation of the supplementary income tax levied on remittances abroad in excess of 12% of the registered capital. Carryover of remittance rights is permitted within the years which comprise each three-year period, but not from one of such periods to the others. Examples and formulas illustrate the rules.32

Construing a provision of the income tax law which regards as disguised dividends loans made to shareholders or partners of the lender, the Tax System Coordinator has held that the provision does not apply to loans from a holding company to its subsidiary. An earlier ruling which took a different view has been superseded.33

The Secretary of Federal Revenue has ruled that domestic distributors of foreign films may deduct the expenses incurred within the country and attributable to the foreign producer since March 3, 1970.34

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34. Ruling Instruction 38 of August 1, 1978.
In compliance with the Agreement for Expansion of Trade signed by Brazil and Uruguay, Brazil has released the list of products originating in Uruguay entitled to import duty concessions.\(^5\)

The special 6% tax rate applied to electric power companies, telecommunication carriers, and other public concessionaires engaged in basic sanitation, which was effective to the fiscal year 1979, has been extended to the fiscal year 1982 (taxable year 1981). The tax credit granted to legal entities for investment in educational programs has been extended to and including the fiscal year 1982 (taxable year 1981).\(^5\)

Several provisions of the law which revamped taxation of legal entities have been amended; others have been implemented. Affiliated companies are no longer allowed to file consolidated tax returns. Certain changes affect appraisal of investments in and dividends from affiliated companies, monetary adjustment of real property held as inventory, inclusion of income from long-term contracts, reconstruction of income in the absence of proper accounting books, and taxation of such income attributable to each shareholder at a 30% rate. No fiscal incentives are allowed as credits against tax resulting from the reconstruction of income. Losses resulting from the sale of assets acquired with tax monies are not deductible. The deadline to convert foreign loans into preferred stock has been extended by one year.\(^7\)

From January 1, 1979, small enterprises engaged in trade and manufacturing may elect to be taxed on the basis of their presumptive income pursuant to new rules. The tax shall be 5% of gross receipts from trade and manufacturing and 10% on gross receipts from rendition of related services.\(^8\) Lubricant oils are subject to the single tax on lubricants and fuels at a 5% rate on the selling price. Such oils will be exempt from this tax until 1983.\(^9\)

Several noteworthy changes have occurred in the area of promotion of economic development. Congress has made applicable to enterprises located in the Northeast and, presumably, in the Amazon region, the benefit granted to all legal entities which allows a 200% deduction for the cost of certain programs. Inasmuch as enterprises located in the Northeast and the Amazon areas are exempt from

\(^8\) Decree-Law 1647 of December 18, 1978.
\(^9\) Law 6560 of September 18, 1978.
income tax for a ten year period, the tax benefit shall consist of a credit against the industrialized products tax payable by them, in an amount equivalent to that allowed for the cost of professional qualification programs or for expenses in workers' meals programs. In addition, manufacturing and farming industries which were in operation in the Northeast region by July 12, 1963, may continue to enjoy a 50% reduction on the income tax and nonrefundable additional taxes payable by them, up to and including the fiscal period 1982 (taxable year 1981).40

Brazilian companies, at least two-thirds owned by Brazilian nationals, and which export services, are entitled to new tax benefits with respect to domestic industrialized products sold abroad in connection with their services. Such benefits consist of a credit for the industrialized products tax levied on the producer of the goods, and an income tax exemption on profits attributable to the sale of the goods. The Ministry of the Treasury may waive the income tax payable on remittances of commissions abroad by Brazilian insurance companies.41

The allocation of 30% of the tax liability invested in promoted areas and activities for the National Integration Program, which was due to terminate by the fiscal period 1978, has been extended up to and including the fiscal period 1980 (taxable year 1979).42

The law which revamped taxation of legal entities provides that amounts representing tax not paid by reason of exemptions or reductions granted for the promotion of certain activities may not be distributed, under penalty of forfeiting the tax benefit. Fishing is not listed among the activities to which such rules apply. However, the Tax System Coordinator held that the list is not limited and that fishing enterprises are, therefore, subject to the rules.43

The deadline for an election to apply tax money in establishments located within Espirito Santo State has been extended to the fiscal period 1979 (taxable year 1978).44

As an inflation-generated measure, and exercising the authority granted it by the law, the Ministry of the Treasury has fixed at 1.35% the coefficient for updating cruzeiro values contained in the Income

Tax Law. Such coefficient was set in accordance with the changes in the value of the Readjustable National Treasury Bonds between November 1977 and October 1978, and it applies from the fiscal period 1979 (taxable year 1978). A similar coefficient applies for adjusting income tax withheld at the source during the taxable year 1978 and for adjusting cruzeiro values contained in the decree-law that revamped taxation of legal entities. A table of the values expressed in cruzeiros in the Income Tax Law as consolidated in 1975, and subsequent amendments, among which are the brackets of taxable income for individuals, adjusted pursuant to the 1.35 coefficient and rounded-off to the closest hundredths of cruzeiro, has been approved.45

Finally, within the special situations area, in order to speed up the processing of applications for registration for the transfer of technology for a consideration, the National Institute for Industrial Property (INPI) requires that applications for registration of contracts be preceded by a preliminary consultation outlining the transaction and the stage of the negotiations.46

CHILE

Several changes have been introduced in the fiscal policy area. Certain provisions of the Income Tax Law applicable to resident individuals have been revised. The changes affect income to be reported from January 1, 1978, or withheld on or after that date.47

Pursuant to a recent amendment to the Income Tax Law, interest from foreign currency bonds issued by the Bank of the State of Chile and interest from LAFTA bank acceptances will be exempt from tax. Banks have also been favored by extending the exemption from sales and services tax to notes issued by them. The Tax Code has been amended, effective January 1, 1979, with respect to payment of taxes in installments.48

The special sales tax levied on sales of used motor vehicles has been reduced from 8% to 4%, beginning September 1, 1978.49 The Stamp Tax Law has been amended to exempt from the 1% tax documents containing contracts for foreign investment, foreign loans, debt securities placed abroad, and contracts for the transfer of technology.50

49. See note 47 supra.
50. See note 48 supra.
Effective April 12, 1978, the Sales Tax Law has been amended to include color television sets among the items subject to special sales tax in addition to the general sales tax. The rate is 30%.51

Substantial changes on application, rates, and payment of the sales and services tax entered into effect on September 1, 1978. Cigars and cigarettes are no longer exempt. In addition, the excise tax levied on cigars has been reduced from 40% to 26%, and that levied on cigarettes has been reduced from 57% to 42.9%.52 The Executive Branch has also been authorized to establish, within one year, specific taxes on petroleum by-products and on sales of regular and special gasoline.53

Four decrees affecting the import duty tariff have been passed. One decree grants important concessions to petrochemical imports originating in LAFTA countries. Another decree also grants important concessions to chemical products imported from LAFTA countries. A third decree revises concessions granted to imports of certain office machines originating from Argentina, Brazil, and Uruguay. A fourth decree has revised the ad valorem duty levied on petroleum by-products.54 Also, the National List of Chile granting import duty concessions to LAFTA countries has been revised and extended. Special concessions are granted to imports from Paraguay. The new list applies from January 1, 1978, through December 31, 1978.55

Concerning the promotion of economic development, a new law has revised the percentage of gross income which residents in regions promoting free zones and in-bond warehouses may invest tax-free in enterprises located therein. The tax on the first sale of imported automobiles has also been revised by reducing the rate from 24% to 5% for cars sold within some of the promoted areas.56

Regarding the area of inflation-generated measures, the Executive Branch, exercising the powers granted it through the Income Tax Law as amended in 1976, has revised the dollar values representing the price of minerals used in fixing progressive rates of the income tax payable by miners. Such values have been adjusted upwards.

Exercising the authority granted it by the Stamp Tax Law, the Executive Branch has updated the fixed rates of the tax by increasing them 16.1% as of July 1, 1978. A table of such rates has been released. Wages, salaries, pensions, and minimum vital salaries have been adjusted by 10% starting July 1, 1978.

Retroactive to July 1, 1978, appraisals of urban and rural property and farmland fixed as of June 30, 1978, are to be adjusted upwards in accordance to the cost of living index change for the period January 1-June 30, 1978. The Executive Branch shall revise such appraisals every sixth month, or may revise them once a year by accumulating the coefficient change for the two six-month periods.

In the social security area, two decrees with the force of law have introduced changes in the unemployment benefit program and in the rules governing disability subsidies for employees of the private sector. Disability subsidies are free from social security contributions and are not regarded as income for any legal purpose. They are to be financed by an employer contribution equivalent to 2% of the payroll subject to contribution to the Single Fund for Family Allowances.

Under the special situations area, Chile has approved a treaty signed with Argentina for avoiding double taxation concerning taxes on income, gains or benefits, and on capital and net worth. Under the authority vested in it by law to grant tax exemption to foreign international air and sea carriers on the basis of reciprocity, the Executive Branch has promulgated agreements with France and the Federal Republic of Germany to avoid double taxation of income derived by such carriers.

COLOMBIA

Fiscal Policy in Colombia offers some interesting developments. For instance, the General Bureau of National Taxes has ruled that where the nonresident recipient of royalties, which are eligible to be subject only to the remittance tax, is required to appoint an agent within Colombia, the royalties become subject to the 40% income tax.

61. Decrees with Force of Law 43 and 44, of June 1, 1978.
Pursuant to the Taxpayers' Relief Law and regulations thereunder, a minimum taxable income is imputed, equivalent to 8% of net worth; the statutory presumption may only be superseded by circumstances beyond the taxpayer's control. Construing such rule, the General Bureau of National Taxes has held that the limitation on remittances imposed on nonresident taxpayers does not constitute such a circumstance beyond the taxpayer's control. A nonresident has the possibility of generating within the country at least 8% of net worth imputed by the statute.

A circular of the Income Tax Bureau has been declared to be null and void insofar as it ruled that gains from any blueprint sold abroad to Colombian residents constituted industrial property subject to tax in Colombia. In so holding, the Council of State distinguishes between blueprints which do constitute industrial property and those which do not. Only gain from the sale of those which constitute industrial property is taxable in Colombia. The Circular had been reversed by a subsequent Circular, but such reversal occurred after the action against the first Circular had been instituted.

Congress is considering a bill whereby income taxation of occasional gains and of earned income would be revised. Legal entities would be taxed on the gain from fixed assets held more than two years, but a credit against the tax would be allowed if 70% of such gain is invested and the remaining 30% is applied to the purchase of bonds of the Institute for Industrial Promotion.

The National List of Colombia, establishing import duty concessions to LAFTA countries, has been released. Special concessions are granted to certain imports from Bolivia, Ecuador, Paraguay, and Uruguay. Pursuant to a new decree which is effective October 1, 1978, the National List applies to the products mentioned therein originating from Argentina, Bolivia, Brazil, Chile, Ecuador, Mexico, Paraguay, Peru, Uruguay, and Venezuela. The special concessions to the less developed countries are contained in a special list for each of them. Numerous items of the import duty tariff have been revised resulting in higher duties for certain machine tools and electric components. The

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new duties took effect on November 30, 1978. Other machinery will remain subject to 5% single ad valorem duty until June 30, 1979.69

With respect to the promotion of economic development, the percentage of the proceeds from exports of certain industrialized products to be represented by Tax Credit Certificates has been increased beginning January 1, 1979. The percentages are 12%, 9%, or 5% depending on the product listed in a new decree. All other products originate tax credit certificates equivalent to 1 per thousand to the total amount of the proceeds.70

Within the area of inflation-generated measures, the Executive Branch has updated the amounts expressed in pesos in the Income Tax Law. Brackets of income and brackets of net worth subject to progressive rates applicable in taxable year 1978 have been revised accordingly by 9.5% (60% of 15.8% cost of living increase). The Executive Branch has also updated peso values contained in various income-related laws and decrees for the taxable year 1978, thus amending previous updating for such year.71

In the social security area, the Council of State has upheld a resolution of the tax authorities disallowing the deduction of social security contributions paid after the taxable year was closed, pursuant to an extension granted by the Social Security Institute. It held that such payment is not an expense incurred during the taxable year and, therefore, is not deductible.72

With regard to the tax administration area, regulations under the recent law which overhauled tax procedure have been issued. They became effective on May 3, 1978, and apply to returns filed on or after January 1, 1977. Among the most important rules contained in the regulations are those dealing with taxpayers' remedies, computation of terms, and amendment of returns.73

The special situations area offers the approval of model tax treaties. Colombia has approved the model tax treaties established by Decision 40 of the Cartagena Commission. One covers treaties among members of the Andean Pact, and the other covers treaties between Colombia and non-member countries. Both model treaties attempt

to prevent double taxation of income and net worth by giving jurisdic-
tion to tax to the signatory country where the income is produced or
the assets located.\textsuperscript{74}

Finally, implementing a statutory provision, the Tax Bureau has
ruled that tax clearance certificates are to be issued when tax deficien-
cies have been established and there are appeals timely filed.\textsuperscript{76}

\textbf{COSTA RICA}

Regarding the tax policy area in Costa Rica, the tax on real prop-
erty transfers has been replaced by a new tax on such transfers. The
new tax is similar to the old, except that it applies on the transfer price
or the appraisal value, whichever is the highest, at fixed rates rather
than at a progressive rate. The fixed rates range from 1.5\% to 4\%.
Under the new tax, if the transfer price or appraisal are no higher than
100,000 colones, the transfer is exempt. That exemption was 200,000
colones under the old tax.\textsuperscript{76}

Exercising the authority granted it to regulate the economy, the
Executive Branch has passed two decrees revising the rates of the
selective consumption tax. Effective March 17, 1978, television re-
cievers and certain automobiles became subject to tax at rates ranging
from 30\% to 100\% of their selling price. Effective March 31, 1978,
lower rates apply to sales or imports of marmalade, bicycles, radio
receivers, recorders, and other products.\textsuperscript{77}

The area of promotion of economic development was enlarged
when new regulations under the Law for the Promotion of Non-tradi-
tional Exports entered into effect on January 23, 1978. These regula-
tions cover the following: the definition of non-traditional exports,
tax credit certificates (CAT) and their issuance and utilization; cus-
toms franchises and tax rebates; the system of imports in transit; ex-
ports to countries imposing import quotas; tax credit certificates for
increases in exports; automatic tax credit certificates for handicraft; and
procedural rules.\textsuperscript{78}

Finally, in the special situations area, it is especially noteworthy
that Congress has ratified the Third Protocol to the Central American

\textsuperscript{74} Decree 1551 of July 28, 1978.
\textsuperscript{75} Instruction 6 of October 17, 1978.
\textsuperscript{76} Law 6153 of November 21, 1977.
\textsuperscript{78} Decree 7930-MEIC of January 23, 1978 \textit{as amended by Decree 8035-
Agreement on Tax Incentives to Industrial Development. It has also ratified the extension to December 31, 1983, of the Second Protocol to such Agreement, and the extension to November 8, 1983, of the Protocol to the General Treaty of Central American Economic Integration. Under the Third Protocol, dated August 31, 1977, signatory countries may grant income tax exemptions to manufacturing enterprises and to their owners, except where such taxpayers are subject in their home country to taxes which render the exemption ineffective. Costa Rica has approved the new Rules for the Application of the Central American Agreement for Fiscal Incentives for Industrial Development passed to conform to the Third Protocol to such Agreement. It also approved amendments to such Rules, which entered into effect on March 21, 1978.

**Dominican Republic**

The most significant change made within the tax policy area was the revision of the tax on profits from sugar exports. Recognizing that the cost of producing sugar has increased and that sugar cane growers are to be aided, the tax on excess profits from the sale of sugar abroad has been revised. The progressive tax on such profits shall not apply to sales of sugar or molasses the price of which is not higher than eleven cents per pound, FAS Dominican port.

Congress has enacted a law which requires taxpayers to report the assets held as of December 31, 1978, and which can be presumed to have been acquired with unreported income.

Within the area relating to the promotion of economic development, and pursuant to two new decrees, two new free zones have been created: one in the Cibao Airport, and the other creating the Ataranza Free Zone in the city of Santo Domingo de Guzman.

Integrated agribusiness and mining would be fostered pursuant to a bill drafted by the Secretary of Industry and Commerce. Tax benefits would range from a 100% exemption from income tax and from customs duties, to a 30% exemption for non-integrated industries. The maximum tax benefit would be granted to enterprises which process

local raw materials for the first five years they are in operation. Among the industries to be aided are the wine, meat, milk, and coconut industries.\textsuperscript{84}

Communication carriers will be exempt from all customs or consumption taxes applicable to machinery, equipment, and supplies. Certain equipment may not be sold for five years. Benefited enterprises remain subject to the income tax. The carriers entitled to the exemption granted by a recent statute are publishers of newspapers and magazines of general circulation, radio and television stations, and motion picture companies producing news releases and documentary films. An enterprise may not import tax-free more than one rotary printing press or transmitter in a five-year period. An exception to this rule is provided for growing enterprises.\textsuperscript{85}

Concerning the social security system area, Congress is considering two bills which would broaden the benefits granted to workers under the current social security system, without increasing employers’ or employees’ contribution to the system.\textsuperscript{86}

Lastly, under special situations, it is to be noted that Congress has regulated foreign investment and the transfer of technology. The law entered into effect on September 6, 1978. The salient features of the law are the following: (a) a company is regarded “domestic” if more than 70\% of its equity belongs to nationals; (b) “mixed” companies are those owned 51 to 70\% by nationals; (c) investments will be registered in national currency; (d) “foreign” companies are excluded from public utilities services, production of materials related to national security, communication and transportation carriers, forestry, farming, fishing, banking, insurance, and land development other than touristic projects; (e) profits in excess of 18\% of the registered capital may not be remitted except if derived from exports or from participation in a “domestic” company; (f) remittable profits not remitted nor reinvested within two years from the closing date of a fiscal year will become blocked; (g) capital repatriation will be allowed, but any capital gain thereon is limited to 2\% per year cumulative to a maximum of 20\%. Transfers of technology will entitle the transferor to receive royalties, but technology may not be contributed as capital of local companies. “Foreign” enterprises will not be entitled to the tax exemptions granted by the Industrial Promotion Law, the Farming Promotion Law, and the Rental

Property Promotion Law. Existing foreign investments are governed by the new law, except for the exclusion from engaging in activities now reserved to "national" or "mixed" enterprises. Existing contracts for the licensing and transfer of technology must be registered with the Central Bank within six months from the effective date of the statute.87

**ECUADOR**

The area of fiscal policy has experienced major alterations due to the important changes in the Hydrocarbons Law which entered into effect on May 2, 1978. One of the amendments introduces the "oil operation contract" whereby domestic or foreign private entities undertake to explore and exploit oil deposits at their own risk, for the benefit of the government-owned entity CEPE, receiving as remuneration, only if the operation is successful, an amount of oil sufficient to recover the investment with a reasonable profit margin. The royalty tax on the oil extracted under operation contracts is to be borne by CEPE. Private parties to operation contracts are exempt from all the taxes imposed in the hydrocarbons law except for an annual contribution for research and development.88

The rates of the contribution for the Superintendency of Companies payable for 1978 by domiciled corporations, limited liability companies, and all foreign companies doing business within Ecuador have been fixed. The contribution is computed on the real assets of the company, determined in the manner set forth in a Resolution of the Superintendency.89

The Tax Court has handed down rules for the assessment of tax and the determination of deficiencies. The rules deal with allowance of deductions, replacements of fixed assets which have been depreciated on the basis of replacement value, capitalization of reserves from such depreciation, and authority of the General Director of Revenue. Such rules are mandatory on tax officials when published in the Official Gazette.90

Ecuador has revised the duties levied on the list of products approved in the Sectorial Program for Development of the Petrochemical Industry. If such products originate in countries which are members of the Andean Agreement, their importation is free.91

90. Resolution 2 of September 13, 1978, Tax Court of the Republic.
Concerning the promotion of economic development, a codification of the Rental Property Law restates the five year exemption from property tax of buildings erected in urban zones. The exemption applies for five years beginning after completion of the building. It does not include the real property tax attributable to the value of the land.92

As for social security systems, foreign workers no longer will be excluded from compulsory registration under the social security system.93

Finally, in the special situations area, Ecuadorian companies owned in whole or in part by foreigners, and interested in establishing new companies within Ecuador, or in acquiring shares of existing companies, are to follow the procedure set forth in a new resolution of the competent authority for foreign investment. The new resolution consolidates early resolutions which have been repealed as of October 18, 1978.94

**EL SALVADOR**

Within the tax policy area, the so-called "road tax series D," which is levied annually on farmers, merchants, craftsmen, day workers, etc., for the benefit of municipalities, will no longer be imposed on day workers. The exemption entered into effect on July 13, 1978.95

Two decrees of the Legislative Assembly have introduced important changes in the Income Tax Law. One decree allows financial institutions and insurance companies to deduct a provision for bad debts, beginning December 29, 1978. The other decree amends rules on corporate distributions, deductibility of legal reserve by corporations, individuals' non-business deductions, amount of deduction for dependents, personal exemption as a credit against the tax payable by individuals, and several administrative matters. The changes entered into effect on December 31, 1978.96

A new tax based on the selling price of beer and soft drinks has been created, effective December 6, 1978. The rates are 42.5% for beer and 18% for soft drinks. Beer and soft drinks which are exported are exempt.97

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Effective December 29, 1978, the rates of the tax on capitalized profits of legal entities have been reduced by almost 50%, and the rates of the excise tax on sugar for domestic consumption have been reduced to 1 colon per 46 kilograms.98

Within the area of promotion of economic development, only one significant measure was taken. Foreign companies which enter into contracts with the Ministry of Agriculture and Livestock for the supplying of goods and services to be utilized in a fishing development project shall enjoy exemption from income tax on their profits as well as from import duties on machinery and supplies. If such goods and services are supplied by nonresident individuals, the income tax exemption shall be limited to the amount in which such persons are disallowed a credit against the home country income tax for the tax paid in El Salvador. Goods imported duty-free under the present law may not be sold or used in other activities and must be exported within three months from the completion of the contracts. Failure to meet such conditions triggers liability for the import duties waived. The project is financed by a loan from the Inter-American Development Bank.99

GUATEMALA

The most significant occurrence within the fiscal policy area was that Congress has approved, and the Executive Branch ratified, the extension to November 8, 1983, of the Protocol to the General Treaty of Central American Economic Integration, dealing with measures to protect the balance of payments.100

The main development under the promotion of economic development area relates to the construction industry. Without prejudice to exemptions granted by an earlier law to certain legal entities, any individual or legal entity may import free from duties lumber, boards, cement, and lime for two years from September 6, 1978.101

Lastly, only one important measure was taken under the social security systems area. Five Orders of the Social Security Institute extending protection in case of illness and maternity have been passed. Twelve new Departments are now covered by the system. One of the

100. Legislative Decree 59-78 and Ratification Instrument, October 17, 1978.
Orders establishes rules for claiming benefits by reason of illness or maternity, and fixes at 4% and 2% of payroll the contribution of employer and employee, respectively. It became operative on September 1, 1978.\textsuperscript{102} In addition, coverage under the social security system was extended to include, from June 1, 1978, eight municipalities in the Huehuetenango Department.\textsuperscript{103}

**Honduras**

No significant changes have taken place within the tax policy area. Rates and exemption rules of the consumption tax levied on imported and locally refined petroleum by-products have been revised. Among the products subject to the tax are aviation gasoline, premium gasoline, regular gasoline, kerosene, diesel oil, combustible gas, and bunker “c” oil. The tax applies upon shipment from a refinery, except where the product is to be exported. Imports of any of the products taxed under the law, made because of the inability of local refineries to meet market demands, will be exempt from the consumption tax if the cost of the import is higher than the cost of the product locally refined.\textsuperscript{104}

The law vesting the Executive Branch with special powers to protect consumers has been implemented by regulations. Under the regulations, import duty exemptions may be decreased with or without a prior petition of an interested party.\textsuperscript{105}

Within the area of promotion of economic development, it may be observed that small manufacturing enterprises and handicraft have been aided by a new law. Eligible enterprises will be entitled to the following tax benefits: full or partial exemption from income tax; import duty exemption for machinery, replacement parts, supplies, and raw materials; and consumption tax exemption for fuel, except gasoline. Eligible enterprises are classified in three groups, depending on the proportion of domestic raw materials utilized in the finished product. The amount and duration of the tax benefits vary according to such classification. The new law entered into effect on November 12, 1978.\textsuperscript{106}

\textsuperscript{102} Orders 616, 617, 618 of May 18, 1978; Orders 621 and 622 of June 13, 1978.
\textsuperscript{104} Decree 620 of May 11, 1978.
\textsuperscript{105} Executive Order 566-78 of October 16, 1978.
\textsuperscript{106} Decree 681 of October 23, 1978.
In the tax policy area, substantial changes in the income tax system entered into effect on January 1, 1979. Among those affecting nonresidents, fees derived by nonresident directors of Mexican corporations are regarded as income from Mexican sources and therefore taxable. Stock dividends and interest from bonds issued by financial institutions are taxed at a 21% rate. Changes affecting corporations include the adjustment of depreciation accounts and of liabilities, in accordance with coefficients to be fixed by the Revenue Law, and the elimination of the tax on extraordinary gross profits. Taxation of income derived by individuals includes now all receipts whether or not originating in investment and labor.107

On January 1, 1979, changes in numerous taxes and in administration thereof entered into effect. Among others, the following have been revised: (a) customs code; (b) tax code; (c) alcohol tax; (d) gross receipts tax; (e) tax on lotteries and prizes; (f) federal revenue law rules on tax returns reporting income from employment; and (g) tax court organization. Also effective on January 1, 1979, are certain provisions of the following excise taxes: (a) on soft drinks; (b) on beer; (c) on alcohol and sugar; (d) on mining; (e) on telephone service; (f) on possession of motor vehicles; and (g) on sales of gasoline. Other provisions of the above-mentioned excise taxes will take effect on January 1, 1980. Changes in the following taxes shall become effective on January 1, 1980: (a) on hydromel; (b) on consumption of electricity; (c) on consumption of gasoline; (d) on petroleum and its by-products; (e) on production of electricity; (f) on salt; (g) on processed tobacco; (h) on tax controls by financial institutions; (i) on taxation of sureties; (j) on tax compliance by insurance companies; and (k) on investment companies. New rates apply from the calendar year 1979 for the tax on beer, the tax on soft drinks, and the tax on possession of motor vehicles. A separate law has also revised the rates of the tax on processed tobacco, effective December 30, 1978.108

In lieu of eighteen sales and gross receipt taxes, a new added-value tax has been created. It became effective on January 1, 1980, when the other taxes ceased to apply. The general rate is 10%, except

for sales in free zones or border areas, where the rate shall be 6%. The tax is payable by persons who, within the country, sell goods, render independent services, lease or license assets, or import goods or services. Technical assistance and transfer of technology used within the country and rendered by nonresidents is taxable as imported services. The tax shall be due when the performer of the services becomes entitled to receive the fee.109

A new law regulating valuation of imported goods for customs duties purposes entered into effect on July 1, 1979. It contains rules to determine the value on the basis of various prices, on the use of foreign tradenames or trademarks, and to determine if a transaction is made by affiliated or by independent parties.110

Also, in the tax policy area, the import duty tariff has been revised with respect to numerous chemicals, dyes, pigments, film, photographic paper, calculators, electric converters, automobile accessories, measuring instruments, magnetic recorders, and other items. Special concessions, many of which terminated on December 31, 1978, were granted for those products originating from certain LAFTA countries. The new duties became effective on July 8, 1978. Most of the duties levied on chemicals and dyes apply at a 10% ad valorem rate, which is reduced to 2% for imports from the LAFTA countries specified under each item. Other products are taxed at rates ranging from 20% to 60%, which are reduced from 3% to 15% for imports from certain LAFTA countries. Lower duties in force prior to July 8, 1978, may be applied for the benefit of an importer if it is shown that the goods had been on board in transit to Mexico by that date.111

In taxable year 1978, foreign international airlines may elect to be subject to tax pursuant to a special system. Normal tax at the progressive rate applicable to “major taxpayers” is to be levied on the amount of net income which bears the same proportion to net income from all international operations that gross income from Mexican operations bears to their entire gross income from all international operations. Worldwide figures must be supported by submitting copies of the income tax returns filed in the home country by the home office. If no such filing is required, the figures must be supported by audited financial statements notarized before Mexican Consul. Failure to submit such supporting documents will result in the

reconstruction of net income, in addition to the assessment of penalties. An annex states guidelines for computing the normal tax and the tax on distributed income.\textsuperscript{112}

Effective January 1, 1979, "major taxpayers" engaged in "necessary" activities may credit against the income tax payable by them 10% of the amounts invested in new machinery, but no more than 25% of such credit in each fiscal year.\textsuperscript{113}

Pertaining to the area of promotion of economic development, cement enterprises owned by Mexican citizens will enjoy tax benefits under a new Order. The benefits are a 75% subsidy against ad valorem duties and accelerated depreciation of machinery, in accordance with the location of the enterprise. The amount of depreciation must be reinvested within the fifth year following that when the deduction was claimed. Machinery imported duty-free may not be sold for five years after its importation, unless governmental approval is obtained and the forgone duties are paid. The Order entered into effect on May 19, 1978.\textsuperscript{114}

In view of the special rate of gross receipts tax levied on restaurants since January 1, 1978, the Executive Branch has terminated the waiver of the Federal Treasury's portion of the gross receipts tax payable by restaurants and taverns located in border zones.\textsuperscript{115} In addition, manufacturers, distributors, and retailers serving the North Border Strip and Free Zones will be entitled to up to 100% import duty exemptions under three new Executive Decrees. In the case of distributors and retailers, the benefit will be limited to ten years from the first importation, and accelerated depreciation of the fixed assets will be allowed for income tax purposes. All three decrees entered into effect on October 21, 1978. Only enterprises owned by Mexican capital are eligible for the new benefits.\textsuperscript{116}

With respect to tax administration, it should be noted that guidelines for granting tax subsidies to selected industries and activities have been set forth by law. The same statute approves tax refunds authorized by the Executive Branch during 1978 for the promotion of exports. The Executive Branch has been vested with the power to pass measures necessary for the administration of the tax laws.\textsuperscript{117}

\textsuperscript{113} Federation Revenue Law of December 26, 1978.
\textsuperscript{114} Order of May 17, 1978.
\textsuperscript{115} Executive Decree of August 31, 1978.
\textsuperscript{116} Decrees of October 19, 1978.
\textsuperscript{117} See note 113 supra.
Within the fiscal policy area, changes occurred with the introduction of new income tax law amendments which entered into effect on August 17, 1978. Under these changes, the authority to fix the percentage of gross income derived by nonresidents, which is to be regarded as taxable net income, is no longer vested in the Tax Bureau, but rather in the Executive Branch; the exemption to interest from short-term (up to three years) foreign loans applied to farming now includes business and industrial applications. These loans are exempt from personal property tax. Other changes deal with personal exemptions, reinvestment incentives, and withholding of salaried income of resident individuals.\textsuperscript{118}

Congress has laid down guidelines for appraising rural property for purposes of the real property tax. Such appraisal is to be based on the production capacity of the land, in the manner prescribed in the new rules. The new law defines production capacity as the degree of adaptability of the land to agricultural, stock raising, and forestry activities with a minimum investment. Certain improvements such as housing and machinery, fixtures, and installations attached to the land are to be excluded in computing the value of the land.\textsuperscript{119}

Higher rates and new rules for payment of the sales tax took effect on August 16, 1978. Computer rentals and services have been subject to the general sales tax since September 30, 1978. The general sales tax rate has been increased from 6 to 8\% and most of the rates of the selective consumption tax levied on sales of luxury items have been also increased. The new rates of the selective consumption tax range from 10\% for certain foodstuffs to 150\% for liquor.\textsuperscript{120} Revised rates of the sealed paper and stamp tax levied on certain certificates and legal documents entered into effect on August 16, 1978.\textsuperscript{121}

Within the promotion of economic development area, Congress has cancelled income tax exemptions granted under the Central American Convention on Tax Incentives for Industrial Development and/or Industrial Promotion Laws to industries whose original term for tax benefits has expired. The authority granted to the Executive

\textsuperscript{118} Legislative Decree 717 of August 11, 1978.
\textsuperscript{119} Legislative Decree 693 of May 2, 1978.
\textsuperscript{120} Legislative Decree 713 of August 11, 1978; Executive Decree 31 of August 14, 1978; Executive Decree 32 of July 31, 1978.
\textsuperscript{121} Legislative Decree 715 of August 11, 1978.
Branch to order such cancellation through a general decree has been repealed.\textsuperscript{122}

Regarding social security systems, the amount of social security contributions by employees and employers has been revised, effective January 11, 1979.\textsuperscript{123}

Pertaining to the special situations area, and in view of the economic emergency existing in the country, the Executive Branch has decreed that certain foreign exchange is to be negotiated through the Central Bank. The rule applies to foreign exchange originating in exports and to foreign exchange required for imports and other payments abroad, such as remittances attributable to investments covered by the Foreign Investment Law, and foreign loans negotiated through the banking system.\textsuperscript{124}

Congress has approved, and the Executive Branch has ratified in its entirety, the Third Protocol to the Central American Agreement on Tax Incentives to Industrial Development; it has also approved the extension to December 31, 1983, of the Second Protocol to such Agreement, and the extension to November 8, 1983, of the Protocol to the General Treaty of Central American Economic Integration. Under the Third Protocol, dated August 31, 1977, signatory countries may grant income tax exemptions to manufacturing enterprises and to their owners, except where such taxpayers are subject in their home country to taxes which render the exemption ineffective.\textsuperscript{125} In addition, Uniform Rules for the application of the Central American Convention on Tax Incentives for Industrial Development, as approved by the Executive Commission for the Central American Common Market, have been passed. They cover definitions, enterprises eligible for tax concessions, bases for the classification of enterprises, rules on competitive imports, restrictions on imports from outside the area, rules of administrative procedure, controls and penalties, and the transfer of benefits granted by Decree. They also provide that foreign shareholders are to file a sworn declaration stating the tax applied on foreign income by their home country in order to determine whether the income tax exemption allowed by the Agreement would be rendered ineffective.\textsuperscript{126}

\textsuperscript{122} Legislative Decree 740 of October 31, 1978.
\textsuperscript{123} Executive Decree 201 of January 3, 1979.
\textsuperscript{124} Executive Decree 332-MEIC of September 9, 1978.
\textsuperscript{125} Congressional Resolution 68 of February 27, 1978; Executive Decree 1 of March 16, 1978.
\textsuperscript{126} Executive Order 333-MEIC of September 12, 1978.
PANAMA

The highlight of the Panamanian fiscal policy has been the introduction of two amendments to the Income Tax Law, effective December 22, 1978. One amendment regards as income from foreign sources, and therefore not taxable, interest derived by Panamanian entities from loans made to resident or nonresident entities whose profits are exclusively from foreign sources. The other amendment deals with the deductibility of a provision for bad debts by banks and financial institutions.127

Among several measures enacted in the area of promotion of economic development, enterprises located in certain Districts and in Colon Province will enjoy a 100% exemption from import duties, property taxes, and income tax in the terms and conditions contained in a new law. The income tax exemption does not apply to extractive industries nor to those which exploit natural resources. The import duty exemption applies to machinery and equipment used in production, raw materials, and fuel. The property tax exemption is limited to land and buildings where manufacturing plants operate.128

Pertaining to the social security systems area, several provisions of the Fiscal Code dealing with customs brokers have been revised.129

PARAGUAY

In a decision of great importance to the tax policy area, the Supreme Court of Justice upheld a Tax Court decision declaring valid certain provisions of the regulations under the corporate capital tax. The provision makes taxable credit balances held by foreign branches of a domestic bank.130

There is a new tax on imports sold to tourists. Electric appliances imported to be resold to tourists will be subject only to a 20% ad valorem tax and a 5% additional tax payable in lieu of sales tax. The new tax applies to goods sold in Puerto Presidente Stroessner and Pedro Juan Caballero. Its purpose is to make such purchases attractive and thus promote tourism in Paraguay.131 Under a new law, international air fares are subject to a 5% tax charged to the purchaser of the ticket.132

129. Law 61 of September 1, 1978.
The Tax Court has held that the stamp tax levied on property transfers does not apply to transfers by reason of death, on which the inheritance tax is levied.\textsuperscript{133}

Taxpayers who derive income from any category other than category "A" (manufacturing, transportation, forestry, mining, electric power plants, construction, and commerce) are to close their taxable year on December 31 of each year, beginning December 31, 1978. The tax on capital of corporations is to be reported on a calendar year basis also, beginning December 31, 1978.\textsuperscript{134}

The minimum tax on real estate has been raised from 400 guaranies to 600 guaranies, beginning January 1, 1979.\textsuperscript{135}

Interest payable for loans obtained abroad to the binational entity ITAIPU is exempt from all taxes. ITAIPU currently owns the dam being built jointly by Brazil and Paraguay. On April 26, 1973, Brazil and Paraguay signed a treaty creating a binational entity which would build, own, and operate a dam. Article XII of such Treaty provides that neither signatory country will impose taxes or compulsory loans on the entity there created.\textsuperscript{136}

Within the promotion of economic development area, it should be noted that machinery and other goods imported by manufacturers under certain industrial credit programs will be exempt from import duties, consular fees, and foreign exchange surcharges. Goods imported duty-free may not be transferred for five years.\textsuperscript{137}

The single 35% ad valorem tax to which raw materials and supplies imported by domestic manufacturers are subject in lieu of import duties and other taxes and fees has been reduced to 12% ad valorem. The new single tax replaces import duties and additional and complimentary duties, a foreign exchange surcharge, consular fees, and certain stamp taxes.\textsuperscript{138}

The last development of interest is related to tax administration. The Income Tax Bureau has extended to all payers of income tax, withholding agents, and payers of sales tax the right to pay taxes by check, a right currently granted to corporations. The returned check shall serve as tax receipt.\textsuperscript{139}

\begin{itemize}
\item \textsuperscript{133} Decision 12 of August 10, 1978, Tax Court.
\item \textsuperscript{134} Decree 1957 of November 14, 1978.
\item \textsuperscript{135} Decree 1069 of October 2, 1978.
\item \textsuperscript{136} Decree 37621 of March 3, 1978.
\item \textsuperscript{137} Decree 38316 of March 31, 1978.
\item \textsuperscript{138} Decree 40840 of July 14, 1978.
\item \textsuperscript{139} Resolution 10 of April 24, 1978, Income Tax Bureau.
\end{itemize}
Substantial changes have taken place within the tax policy area. In an effort to simplify the tax system, numerous taxes have been repealed, and the transfer tax on real and personal property shall no longer apply on property contributed to the capital of companies. Among the taxes repealed is the single tax on admission tickets to professional sports events and the recent single 3% tax on exported wool.\textsuperscript{140}

However, numerous taxes have been increased. They include the rates on earned income, special sales and export taxes, and winnings on horse races.

Effective May 1, 1978, the rates of the single tax on salaries have been increased. The increase from 1\% to 2\% applies to private and public enterprise workers who earn more than 20,000 soles per month; an increase from 2\% to 4\% applies to earnings of the self-employed and of directors of corporations.\textsuperscript{141} The Income Tax Bureau has released the amounts which individuals may claim as personal exemptions which are based on the "minimum vital salary" for Lima Province. Such salary was fixed at 6,900 soles per month, effective September 1, 1978. The exemptions for the taxable year 1978 are as follows: personal exemption, S/144,900; special deduction for income from employment, S/144,900; spouse, S/82,800; each child, S/62,100; and other dependents, S/31,100.\textsuperscript{142} Most of the rates fixed by the added-value tax law have been increased. The general rate is 22\%.\textsuperscript{143}

The 15\% tax on the FOB value of traditional exports and the 15\% tax on the selling price of goods priced according to international markets have both been increased to 17.5\%. The Executive Branch is authorized to revise the structure and the rate of both taxes.\textsuperscript{144}

Horse race winnings are subject to tax at rates ranging from 10\% to 20\%, depending on the prize. Betting tickets are subject to an 11\% or 8\% tax on their selling price if the racetrack is in Lima or outside Lima, respectively.\textsuperscript{145}

Beginning with the taxable year 1979, lower rates apply to the income tax payable by resident individuals and domiciled legal entities.

\textsuperscript{140} Decree-Laws 22392 and 22393 of December 18, 1978.
\textsuperscript{141} Decree-Law 22161 of May 9, 1978.
\textsuperscript{142} Release of September 8, 1978.
\textsuperscript{143} Decree-Law 22163 of May 9, 1978.
\textsuperscript{144} Decree-Law 22166 of May 9, 1978.
\textsuperscript{145} Decree-Law 22248 of July 25, 1978.
This reduction benefits taxpayers who earn income at the lower brackets. The rate payable by legal entities ranges, as under old law, from 20% to 55%. However, the lowest rate applies now to up to 1,000,000 soles of taxable income.\textsuperscript{146}

Enterprises required to share profits with their workers and with their workers' community shall compute the income tax before deducting such contributions. The limits of net profits which can be reinvested tax-free have been revised. Such benefit will consist of a credit against the tax payable from the taxable year 1979, rather than in a deduction from gross income.\textsuperscript{147}

A temporary 10% ad valorem tax on the CIF value of all imports not expressly exempted, which was due to expire by December 31, 1978, has been extended to December 31, 1980.\textsuperscript{148}

Regarding the monetary adjustment of fixed assets, the Executive Branch has fixed the rate of the tax to be imposed on the increase in value of assets at 10%. The rate is 3% for companies engaged in farming and forestry activities. Detailed rules for computation of the adjusted value are set forth. The increase in value for 1978 is to be included in computing net worth tax of enterprises. Regardless of the fiscal year, depreciation allowances are to be computed from January 1, 1979, on the basis of the adjusted value of the assets.\textsuperscript{149}

Two decree-laws have been passed extending the income tax exemption granted to interest from certain term deposits and bonds of financial institutions, while the gross receipts of banks and financial institutions remain subject to a higher sales and service tax, beginning January 1, 1979.\textsuperscript{150}

A new law requires public utilities supplying electricity to revalue their fixed assets acquired or built up to December 31, 1974, as well as to revalue periodically thereafter all their fixed assets.\textsuperscript{151}

Gasoline, kerosene, diesel oil, and other petroleum by-products are now subject to specific excise taxes which supersede those currently imposed thereon. In addition, their sale is subject to the

\textsuperscript{146} Decree 22400 of December 22, 1978.
\textsuperscript{147} Decree-Law 22401 of December 22, 1978.
\textsuperscript{148} Decree-Law 22376 of December 5, 1978.
\textsuperscript{149} Supreme Decree 175-78-EF of December 12, 1978.
\textsuperscript{151} Decree-Law 22130 of March 28, 1978.
general rate of the added-value tax, rather than to a special rate. The latter has been terminated.\textsuperscript{152}

Pertaining to the promotion of economic development, a comprehensive system of tax benefits has been enacted to encourage nontraditional exports. Any exported product not listed in a Decree to be issued, which shall include traditional exports, will be regarded as nontraditional. Among the tax benefits are exemption from export duties and sales tax, continuance of current tax rebates for ten years from November 1978, income tax-free reinvestments, tax-free investments in working capital, additional deductions for new permanent jobs, accelerated depreciation allowances, and import duty exemption. These tax benefits shall apply for ten years from the effective date of the new law.\textsuperscript{153}

Farmers established in the Jungle Region shall enjoy, until December 31, 1990, inclusive of the general tax immunity granted to all persons located therein, a special exemption from tax on net worth of companies and on earned income.\textsuperscript{154}

Shipbuilding is encouraged through a new law which grants numerous tax benefits to all domestic shipbuilding companies and even greater benefits to those constructing large vessels. Among such benefits are tax exemptions for up to 85% of profits reinvested, for up to 100% of profits capitalized, and for interest of loans obtained abroad; income tax exemption for interest of foreign loans made to shipbuilding companies; transfer tax exemption for realty used by their plants; sales tax exemption for supplies used in shipbuilding; sales tax exemption for imported large vessels within Peru; exemption from tax on insurance premiums covering vessels built by them; and import duty exemption for machinery and supplies. To finance a program for financial assistance of shipbuilding companies, a 6% tax on sea freight of goods imported into Peru has been created. Foodstuffs, medicines, and products eligible for duty concessions under LAFTA and Cartagena agreements are exempt until December 31, 1987.\textsuperscript{155}

Until December 31, 1993, gold mining will enjoy tax benefits under a new law regulating such activity. Mining companies located in the Coast and Mountain Region shall pay income tax as provided

\textsuperscript{152} Decree-Laws 22185 and 22186, May 9, 1978.
\textsuperscript{153} Decree-Law 22342 of November 21, 1978.
\textsuperscript{154} Decree-Law 22288 of September 5, 1978.
in the Mining Law and are exempt from the special tax on sales of products priced according to international markets and of the tax on traditional exports. Up to 75% of profits reinvested will enjoy total income tax exemption. Their imports will be exempt from all duties and taxes. Mining companies located in the jungle and their workers will be totally exempt from income tax. Such companies also enjoy total exemption from duties levied on their imports. Any taxpayer may invest in gold mining activities up to 100% of their pre-tax profits free from income tax. Gold mining companies are required to share profits with their workers. To this effect they must deliver in cash to their workers 7% of their net income free from all taxes.\footnote{156}

Broader tax benefits for the construction industry have been established for a ten-year period. The reinvestment of up to 40% of profits free from income tax is allowed to construction companies. The same percentage is allowed to any legal entity for investment in construction enterprises. Individuals may invest in construction enterprises tax-free up to 50% of their profits. Capitalization of profits free of tax is also granted. However, reduction of capital or liquidation within five years from such capitalization triggers the capitalization tax. The tax benefits apply only to Peruvian companies, which are those 80% owned by nationals. Other tax benefits are accelerated depreciation of fixed assets, a 20% reduction of import duties on machinery not available within the country, an exemption of stamp tax on company formation, and an exemption of transfer tax.\footnote{157}

Farming and forestry enterprises and their investors will enjoy from April 1978 to December 31, 1979, the tax benefits described in a law passed because of the expiration of benefits granted ten years earlier. These benefits include: exemption from transfer tax and recording fees, and exemption from income tax for up to 100% of the profits invested or reinvested in such enterprises. Investments or reinvestments higher than profits may be carried forward for three years, including the year when the reinvestment or investment was made. The present law grants an exemption for up to 70% of net income invested or reinvested in agrarian enterprises located on the Coast, up to 90% for those located in the Mountains, and up to 100% for those located in the Jungle. These percentages apply after deduction of workers' share of profits.\footnote{158}

\footnote{156. Decree-Law 22178 of May 9, 1978.}
\footnote{157. Decree-Law 22257 of August 8, 1978.}
\footnote{158. Decree-Law 22135 of April 11, 1978.}
Under amendments to the mining law, mining companies will be entitled to a depreciation allowance equivalent to up to 100% of the cost of machinery and housing for workers, in the terms prescribed in the new provision. They may also, free of tax, revalue machinery and equipment, reinvest up to 50% of their profits, and capitalize profits within six months after the close of any fiscal year. The amendments apply from May 30, 1978, until December 31, 1993.159

Within the area of tax administration, taxpayers of the sales and services tax who have a permanent credit for such tax are now entitled to apply such credit to income tax and capital tax payable by them.160

In the area of special situations, it is noteworthy that two resolutions of the competent authority under the Rules on Foreign Investment and Transfers of Technology, as amended, have been passed. One resolution requires local companies using foreign capital as of December 1971, to declare to the competent authority such participation and subsequent changes thereof. Failure to file such declaration will prevent the remittance of profits abroad. The other resolution rules that foreign investors may remit profits equal to 20% of the registered capital base for fiscal 1977. If 1977 profits are lower than the amount allowed, unremitted prior years' profits may be used to complete the 20% for 1977.161 Capital increases allocable to foreign investors generated by the revaluation of assets pursuant to current legislation are not treated as foreign capital entitled to registration with the Central Bank. Increases entered on the books up to the fiscal year 1977 are excluded from such rule.162

Uruguay

Concerning the fiscal policy area, taxpayers subject to the tax on income from commercial and industrial activities are allowed to deduct from gross income 15% of the value of inventory at the beginning of the fiscal year. This deduction may not exceed 10% of the value of inventory at the close of the fiscal year. The deduction applies only for fiscal years commenced during the calendar year 1977. The amount so deducted must be capitalized.163

As a consideration for the exploitation of the right to air trade with the country, international airlines are to be subject to a new tax applied as a percentage of the tickets sold to travel to or from Uruguay. The Executive Branch shall fix the percentage, which may not exceed 15% of the price of the tickets.\textsuperscript{164} The rate of the excise tax on passenger air fares has been reduced from 3.5% to 3%. The tax is levied on tickets sold within Uruguay or sold outside Uruguay if the trip originates from Uruguay. Gross receipts from air cargo shipped from Uruguay are subject to a 4% rate.\textsuperscript{165}

The Executive Branch has decreed that the 10% minimum surcharge on imports is to apply to farm machinery and tractors. Equipment imported to be assembled in the country is exempt from such surcharge.\textsuperscript{166}

In order to adjust the duties on imports originating in LAFTA countries after the creation of the single import tax, Uruguay has revised as of November 1, 1978, the tariff reductions and exemptions contained in its National List, in complementary agreements, and in the special benefit list for imports from Bolivia, Ecuador, and Paraguay.\textsuperscript{167}

Pertaining to the area of promotion of economic development, it bears reporting that enterprises engaged in forestry and in the processing of cellulose and lumber are entitled to import, until March 6, 1980, fertilizer, chemicals, and other supplies used by them free from all duties, surcharges, and customs fees.\textsuperscript{168}

As an inflation-generated measure and for the purpose of computing taxes involving real estate, real property appraisals for 1976 were updated for 1977 according to coefficients ranging from 1 to 1.8, depending on the Department where the property is located. Upward adjustment of appraisals of urban and suburban real property varies from one Department to another. The adjustment of rural property, wherever located, is fixed at 1.4% of the real value during 1976. The new value applies in computing net worth tax, tax on contracts, tax on rural rentals, and tax on transfers of real property.\textsuperscript{169}

\textsuperscript{164} Law 14845 of November 24, 1978.
\textsuperscript{165} Law 14812 of August 1, 1978.
\textsuperscript{166} Decree 464 of August 11, 1978.
\textsuperscript{167} Decree 594 of September 23, 1978.
\textsuperscript{168} Decree 262 of May 10, 1978.
\textsuperscript{169} Decree 277 of May 23, 1978.
As a tax administration measure, current rules on tax procedure have been consolidated in a single text. Rules on tax returns contained in regulations under various tax laws have been revised. The new text covers a list of taxes administered by the General Tax Bureau, registration of taxpayers in the Single Registry of Taxpayers, supporting documents, taxable year, discontinuance and transfer of businesses, tax returns, withholding, payments, refunds, and time periods.

VENEZUELA

Of major significance in the tax policy area was the introduction of a new Income Tax Law, effective July 1, 1978. The most important differences from the old law are the following: (a) limited liability companies and foreign entities are treated as corporations; (b) joint ventures are treated as general partnerships; (c) fees for technical assistance utilized within Venezuela are regarded as income from domestic sources; (d) after-tax profits of branches of foreign companies are presumed distributed to the home office three months after closing of the branch's fiscal year; (e) exporters are allowed to deduct expenses incurred abroad; (f) losses from sale of securities are deductible under certain conditions; (g) special rules apply to taxation of holding companies; (h) payment of estimated tax on unusually large income received in one taxable year is required; (i) exemption for income from farming, cattle raising, and fishing is granted for ten years starting July 1, 1978; (j) individuals may defer tax on gains from residence; and (k) new rules apply to revaluation of fixed assets. Imputed net income of nonresident companies as a percentage of gross income has been set at 30% for insurance companies, 90% for professional activities, 10% for transportation carriers computed on one half of freights and fares, the percentage to be fixed by regulations for fees for technical assistance utilized in Venezuela, and 90% for royalties. Tax rates have been increased as follows: corporations pay a progressive tax ranging from 18% to 50%; interest from foreign banks is taxed at 15%; cash dividends and stock dividends received by nonresident shareholders and profits distributed to nonresident quotaholders are taxed at 20%; income earned by nonresident individuals is taxed at 20% if derived from employment and 30% if derived by the self-employed; occasional gains from prizes are taxed at a 32% rate; and resident quotaholders are entitled to a reduction on distributions.

by limited liability companies. Oil companies remain taxed at 67.70%, and mining companies at 60%. The present statute repeals the Income Tax Law enacted on December 16, 1966.\textsuperscript{171}

New rules have been issued with respect to the withholding of tax on residents fees, withholding of tax at the source, and withholding of tax on non-salaried income. Withholding of income tax at the source on salaried income, fees, pensions, and other labor-related remuneration derived by resident and nonresident individuals has been regulated anew, effective July 6, 1978. Tax is to be withheld by applying progressive rates if the annual income exceeds 24,000 bolivars. Tables containing such rates have been released. If the recipient of income is a nonresident person, the withholding rate is 20% of the total amount paid or credited, irrespective of said limit. Withholding agents are required to issue monthly and annual statements to recipients of income subject to withholding at the source.\textsuperscript{172}

Non-commercial fees such as those received by physicians, engineers, lawyers, economists, accountants, business administrators, architects, and other professionals resident in Venezuela are subject to withholding of income tax as follows: 12% on 20% of fees received by resident corporations and limited liability companies; and 5% on 50% of fees received by resident individuals or partnerships. The new rules entered into effect on September 4, 1978.\textsuperscript{173}

Exercising the authority granted it by the new Income Tax Law, the Executive Branch has regulated withholding of income tax at the source of income, other than from employment, received by resident and nonresident persons. Among the items received by nonresidents which are subject to withholding are interest (at a progressive rate), freights and fares (at progressive rate), motion picture rentals (at progressive rates on 25% of rentals), royalties (at progressive rate on 90% of royalty), fees for know-how (at progressive rate on presumed net income to be fixed by regulations), insurance premiums (at 3%), reinsurance premiums (at 3%), professional fees (at 30%), dividends (at 20%), after-tax branch profits (at 20%), and interest of foreign bank loans (at 15%). Among the items received by residents which are subject to withholding are fees, severance pay, undistributed profits of holding companies, prizes, and gains from sales of real estate. These

\textsuperscript{172} Decree 2726 of July 4, 1978.
\textsuperscript{173} Decree 2825 of August 29, 1978.
rules became effective on July 6, 1978, except those on real estate gains, which apply from January 1, 1979.  

A new Alcohol Tax Law entered into effect on January 1, 1979. It imposes tax on alcohol and on the alcoholic content of domestic or imported liquor, wine, and beer at various rates. The Executive Branch is authorized to increase or decrease such rates by up to 50%. Domestic alcohol and alcoholic content of beverages is taxed at 9 bolivars per litre. Beer is taxed at 40 cents of bolivar per litre. Wine is taxed at 10 cents of bolivar per litre, up to 6 bolivars per litre.  

The Executive Branch has decreed that interest from loans made by nonresident enterprises to finance the purchase of fixed assets to be used in manufacturing, farming, cattle raising, forestry, fishing, and building shall be exempt from income tax. The exemption only applies if the lender is the supplier of the assets, the interest does not exceed 8.5% per year, and the term is five years or longer.  

Pursuant to a decree issued by the Executive Branch, interest from certain term deposits, savings deposits, and mortgage notes will be fully exempt from income tax, while corporate bonds publicly offered will be exempt from 50% of the tax.  

A new Cigarette and Tobacco Tax Law took effect on January 1, 1979. It imposes an excise tax equivalent to 45% of the consumer’s price of domestic or imported cigarettes, and 30% of the consumer’s price of domestic or imported tobacco. The Executive Branch is authorized to increase or decrease such rates by up to one third thereof, and to fix the consumer’s price of cigarettes and tobacco. The Executive Branch may exempt small domestic manufacturers from the tax in full or in part, but in fixing the consumer’s price and the tax rate, the Executive Branch is required to keep a certain balance.  

Legal entities engaged in mining, oil, and related activities are required to pay estimated tax in the current taxable year. Such payment must be 96% of the tax liability estimated on the bases of the values of exports fixed for the current year. Gross income from exports is to be determined by multiplying the volume projected for exporting according to sales programs approved by the Ministry of Mines and Hydrocarbons, by the values fixed by the Executive Branch.

178. See note 175 supra.
Branch. The returns thus filed may not be amended, except to increase the tax payable. This rule notwithstanding, the Ministry of the Treasury may authorize the filing of amended returns for a lesser tax liability in the event of special circumstances properly supported. In addition, the Executive Branch has decreed that legal entities and individuals deriving net income not subject to withholding in excess of 100,000 bolivars in the preceding taxable year are required to pay estimated tax for similar income in the current year, on an amount equal to at least 80% of such income derived in the preceding year. The tax due as estimated payment is 75% of the tax applicable to 80% of the net income reported in the preceding year.

Up to 15% of the amount invested in fixed assets not previously used in Venezuela by other enterprises may be credited against the income tax payable by manufacturing, electric power, transportation, and construction enterprises. Any balance not claimable in the year when the assets become operative may be carried forward to the tax payable in the following taxable years.

Effective November 16, 1978, state oil companies have been required to withhold income tax on 95% of the fees for know-how and technical assistance paid by them to former concessionaires of oil deposits, irrespective of the domicile of the recipient. No withholding applies to reimbursement of expenses.

The National List of Venezuela referring to imports from Andean countries has been revised by decree to comply with Decision 78 of the Cartagena Commission. The new duties entered into effect forty days after official publication of the decree.

Of interest in the social security area are new social security rules for Andean Pact signatory countries. Congress has approved the common rules on workers' social security passed by the Cartagena Commission under Decision 113. Decision 113 provides for equal treatment of workers residing in one signatory country and having been employed in another signatory country. Such treatment also applies to exemptions and reductions of taxes levied on documents to be filed with social security institutions of signatory countries.

In the area of tax administration, special rules for the withholding of tax on gains derived from the sale of real property have been in force since January 1, 1979. The tax is to be applied on 80% of the gross gain. The tax thus withheld is regarded as an advance of the tax due pursuant to the annual tax return. Also, procedural rules for the withholding of tax on certain fees and commissions have been in effect since December 13, 1978. They relate to non-commercial fees and commissions for the sale of real estate.

To close this tax law update, it should be noted that with respect to the area of special situations, there is a new Taxpayer's Registry. It was to become operative by January 1, 1979. Individuals and undivided estates who derived in the calendar year 1977 net income in excess of 24,000 bolivars or gross income in excess of 72,000 bolivars, legal entities which, beginning in the calendar year 1977, derived profits or incurred losses by reason of economic activities carried on within the country, government-owned entities subject to the tax, and withholding agents are among the persons required to be enrolled. A registration certificate must be produced to bid in public works and to petition tax exemptions. Individuals, as well as undivided estates, are to apply for registration from January 1 to June 30, 1979. Legal entities and all associations are to apply for registration from January 1 to February 28, 1979.