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Latin American Tax Update

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This study reviews the tax developments in eighteen countries of Latin America during the calendar year 1977. Pertinent legislation and rulings, as well as important judicial decisions, are highlighted in order to provide maximum coverage of the following areas:

Area No. 1: Fiscal Policy
Area No. 2: Promotion of Economic Development
Area No. 3: Inflation-Generated Measures
Area No. 4: Social Security Systems
Area No. 5: Tax Administration
Area No. 6: Special Situations

ARGENTINA

In the Tax Policy Area, a substantial income tax reform has been passed. It includes numerous changes on taxation of nonresidents and individuals, as well as new rules on taxation of business income. Contracts between a foreign company and its Argentine subsidiary will be recognized so long as they conform to normal market practices among non-affiliated parties. However, the deduction of fees paid to a foreign parent company is to be governed by the Transfers of Technology Law. Interest from foreign loans is exempt if proceeds are used to finance industrial equipment. Foreigners may not benefit from income tax exemptions, to the extent that such exemption results in the transfer of revenue from the Argentine treasury to foreign treasuries; new rules apply to the proof of such transfer. In lieu of the 29.5% tax on undistributed profits, dividends remitted to nonresidents, whether they originate in taxed or exempt corporate profits, shall be subject to withholding tax at a 17.5% rate and stock dividends shall be exempt. Dividends paid to identified resident individuals and legal entities are not taxed. Non-identified individuals pay tax on dividends at the 17.5% rate. The forty-five percent rate of the withholding tax on income paid or credited to nonresidents is reduced to a lower effective rate in the case of fees for transfers of technology, copyrights and interest; by regarding such income only in part as from Argentine sources, the effective rates are 18%, 11.25%, and 11.25%, respectively. Income from the leasing of containers is taxed at a

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fifteen percent rate on the gross thereof. Resident individuals shall enjoy higher personal exemptions, which are to be adjusted periodically in accordance with the cost-of-living index, as are the brackets of taxable income.¹ The new law has been implemented by regulations.²

Several changes have been introduced concerning tax rates. Beginning June 21, 1977, the tax on the transfer of securities has been extended to the transfer for a consideration of quotas of limited liability companies and limited partnerships. Gains and profits derived from such transfer are exempt from all taxes whatsoever. The transfer of quotas has been subject to the tax on the ground that limited liability companies and limited partnerships have been taxed as corporations since the Income Tax Law was amended.³

Technical amendments have been introduced in the law levying a tax on the capital of enterprises. To harmonize the tax with the statute regulating foreign investments, the treatment of liabilities between an Argentine company and a foreign company which directly or indirectly controls it has been revised. Such liabilities are treated as being between independent companies if the conditions of the loan are those prevailing in the open market.⁴

Exercising the authority granted it by law, the Executive Branch has extended for one year the application of the current rates of the gross receipts tax levied on radio and television licensees. Thus, from April 1, 1977 through March 31, 1978, the rates were two percent and four percent, respectively.⁵

The tax on unpaid weekly balances of loans granted by financial institutions has been extended to December 31, 1977. The two-per-thousand rate has been reduced to one-per-thousand from January 1, 1977.⁶

Taxpayers who have failed to declare and pay taxes due on or before December 31, 1976 will be entitled to pay such taxes at a reduced rate. The deadline for such payment is to be fixed by the Income Tax Bureau. Unreported taxable income of corporations, limited liability companies, limited partnerships and branches of foreign companies, including income distributed to owners, partners, quotaholders or shareholders, will be subject to a tax, equivalent to fifteen percent of the assets, appraised in accordance with the new law. Individuals and undivided estates shall pay a tax equivalent to ten to fifteen percent of the assets acquired by them with unreported income. The tax imposed by the new law may not be deducted in computing income and occasional gains taxes. All taxpayers claiming the benefits of the new law must file a special return and declare their net worth, including only assets and liabilities located within the country. Individuals may elect to report as well, all or part of their assets and liabilities

¹. Law 21481 of December 30, 1976.
located abroad. Payment of the tax fixed in this law relieves liability from any other tax with respect to the assets included in the declaration.  

Beginning July 1, 1977, benefits derived from the transfer of quotas or shares in the capital of limited liability companies and limited partnerships have been exempt from the occasional gains tax. The old law exempted from the tax any benefit not derived from transfers of quotas or participations in the capital of companies which were not corporations. The amendment results in treating limited liability companies and limited partnerships on an equal footing with corporations, since such companies are subject to income tax under the changes introduced in the Income Tax Law.

Also, several provisions of the Net Worth Tax Law have been revised. Among the revised provisions is that requiring persons who control property owned directly or indirectly by nonresident individuals to withhold the tax at the rate of 1.5%. Indirect ownership is now presumed as a matter of law, where the owner is a foreign legal entity. This amendment entered into effect retroactively from and including December 31, 1975.

The tax on foreign exchange sales has been revamped. A single six-per-thousand tax rate has applied to all purchases and sales of foreign exchange since September 29, 1977. The amendment was prompted by the fact that the various taxable events under the various rates were not clearly distinguishable.

The tax levied on the unpaid balance of loans granted by the National Financing System has been repealed retroactively to the date when the law that reverted to financial institutions the property over their deposits entered into effect. By a Law of January 17, 1977, published in the “Boletin Oficial” on January 21, 1977, financial institutions were given title over their deposits and allowed to set free interest rates on loans granted by them. Thus, since laws enter into effect eight days after publication, the tax was repealed as of January 30, 1977.

Finally, important concessions have been granted to imports originating in certain Latin American Free Trade Association (LAFTA) countries. The concessions apply to chemicals. They became effective on March 27, 1976. The new decree applies to imports from Bolivia, Brazil, Ecuador, Mexico, Paraguay and Uruguay. Imports from such countries will be entitled to import duty benefits as specified in the annex to the Protocol. In addition, important concessions to imports from LAFTA countries are contained in the National List of Argentina which entered into effect on January 1, 1977.

Within Area No. 2, a new Industrial Promotion Law has been enacted. The Executive Branch is authorized to grant certain benefits where a project

pursues any of the objectives listed in the statute, and the equity investment is at least twenty percent of the required capital. The benefits are: (a) Tax incentives consisting of exemption, reduction, suspension or deferment of taxes, and accelerated depreciation, (b) import duty reductions, and (c) protection against competing imports. Projects owned by foreign investors or by local companies owned by foreigners are eligible for all benefits. However, they are eligible for tax benefits on a selective basis and, furthermore, such tax benefits shall not apply in the extent to which their application may result in a transfer of revenue to foreign treasuries. The benefits allowed by the law are limited to ten years from the date fixed by the appropriate governmental agency, but no later than the commencement of operations. New industrial operations within sixty kilometers of Buenos Aires, and within Rosario and Cordoba cities are prohibited. Projects are to be approved on sectorial, regional and special bases, provided that their objective is either the replacement of imports, the processing of local raw materials, the use of advanced technology, the employment of local labor or the concession of social welfare programs for the workers.13

In order to encourage investment in forestation and reforestation by individuals and legal entities, a tax credit in a fixed amount per hectare planted has been established. The credit will be represented by certificates issued by the National Forestry Institute. The certificates are endorsable, may be utilized for payment of any of the taxes administered by the General Tax Bureau, and are exempt from any existing or future national taxes. The new system supersedes income tax law provisions allowing deductions and exemptions for investments in forestation.14

The various benefits granted by law to investments in international hotels and certain lodging facilities have been extended until December 31, 1978, provided that certain conditions are met. The benefits are equally applicable to the gains and capital taxes which substituted for the taxes referred to in the Tourist Promotion Law. Under the old law, income tax exemption was granted for sums employed in the purchase of fixed assets and for investments in the stock of eligible companies. Such benefits apply now to the present gains, capital, net worth, and company capital taxes. The extension applies where the project had been approved by November 30, 1977, and will be forfeited if eighty percent or more of the works are not in operation by June 30, 1978.15

Certain foreign fisheries will be granted experimental exploitation agreements for one year. Those which perform satisfactorily the terms of the agreement will be given preferential treatment if they wish to invest capital under the Foreign Investment Law. The new law authorizes the Ministry of Economy to call for international bidding by fishing companies of certain countries, for exploration and exploitation of fish resources on seas under Argentine jurisdiction south of parallel 40. Companies which, upon comple-

tion of the one-year experimental exploitation, apply for permanent investment within the country, will do so under legislation in force.16

In an attempt to aid the winegrowing industry, the Executive Branch has issued two decrees revising income tax benefits for vineyard growers. One decree allows the deduction of five percent of the value of grapes other than for wine, from taxable income. Processors of grapes may enjoy the tax benefits granted to wine processors. The benefits apply to investments and disbursements made between January 1, 1977 and December 31, 1980. The other decree has suspended from January 1, 1977 to December 31, 1981 the deduction for investments in land improvements if such improvements are intended for planting new vineyards or expanding existing vineyards.17

New settlers (foreign or Argentinian) who have resided for at least one year in the country they are coming from, will be entitled to tax exemptions pursuant to new rules. Articles 1-17, Decree No. 464 of February 21, 1977, state that each eligible immigrant may import up to $100,000 worth of equipment free from import duties, consular fees and preliminary deposits.

Tax exempted items include prefabricated housing, tools, scientific instruments, farming, mining, fishing or industrial equipment, cattle, seeds, tractors, bulldozers, other machinery and vehicles, and related replacement parts. Private automobiles are not included. Tax-free material may not be sold or transferred for three years from date of entry. The aggregate amount of such assets may not exceed $40,000 for settlers who are to be located in the Federal District or Greater Buenos Aires area, $60,000 for those settling in certain Provinces, $70,000 for the rest of the country, other than in the Patagonia region where up to the $100,000 limit is allowed.18

Pursuant to a new law, Projects financed by the International Bank for Reconstruction and Development will qualify for the tax benefits granted to sales of locally-manufactured goods by international bidding. Such sales are treated as exports.19

In Area No. 3, one inflation-generated measure was the revaluation of inventories. Taxpayers may elect to revalue inventories held as of December 31, 1976, and deduct the increase in value from profits subject to income tax for fiscal years closed on or after January 1, 1977. Such increase in value shall be subject to a special tax levied at an eight percent rate, which is not deductible in computing the income tax. Inventories include subdivided land, but exclude mines, forest, securities and foreign currency. The election provided in this statute does not affect the normal method of valuation of inventories for income tax purposes.20

17. Decrees 549 and 550, both of March 2, 1977.
Also, indexation shall apply to taxes the payment of which has been deferred pursuant to tax incentives for industrial promotion. Detailed rules are contained in the new statute to assure that indexation does not distort the incentive effect of the deferment of taxes, while the normal effect of indexation is also assured where a taxpayer becomes delinquent in paying deferred taxes.21

Relating to Area No. 5, the law requiring the issuance of negotiable instruments in official forms has been revoked from its promulgation. The government's retroactive repeal was based on the ground that various postponements were an indication of the impossibility of making the system operative.22

Lastly, Special Situations, Area No. 6, features a new technology transfer law. Transfers of technology from abroad, whether for consideration or without charge, are governed by new legislation. Certain transfers require no registration; others are automatically registered, and the rest must be approved and registered in order to be legally valid. Special rules deal with transfers among affiliated companies. Payment of royalties and fees is allowed, except those for the use of trademarks and prepaid fixed amounts. The furnishing of technology, trademarks use, managerial assistance or engineering may constitute a contribution to the capital of the recipient if so allowed by the company law. Payment ceilings based on net sales are one percent for the use of trademarks, two percent for the automotive industry and five percent for all other transfers. If payments are fixed or periodic, the above percentages are computed on the estimated sales during the life of the contract. While the law does not bar clauses transferring to the recipient of the technology the burden of withholding taxes levied on the transferor, such a clause would be taken into account upon analyzing the amount of the required payments. Existing agreements registered under earlier laws remain registered on a provisional basis, until such time as the competent authority rules on whether they qualify for registration under the present law. Application proceedings may be initiated by any party and several rules aim at expediting decision by the authorities. The present law repeals various decrees and resolutions passed under earlier laws, regarding exchange rate applicable to royalty payments, which is revoked from its inception.23

Regulations under the Foreign Investment Law were released on February 10, 1977. They provide, among other things, that loans are not regarded as capital investment and that proceeds from corporate reserves and monetary adjustment of book values are not regarded as reinvested foreign capital. They also provide rules for applying exchange rates to remittances of profits, repatriations of capital, computation of the tax to be withheld on remittances, and conversions of debt into equity.

Profits invested in activities other than those which originated them are not subject to the tax. Where payments to a parent company are treated as

distribution of profits, only the portion exceeding the arm's length amount will be so treated. Existing companies may adjust their registered capital no later than August 9, 1977, in accordance with the current law.

Exercising the authority granted it by the Foreign Investment Law, the Executive Branch has decreed that investments in aluminum and steel mills, petrochemical activities, and mining, require the prior approval of the Executive Branch. Investment by local companies regarded as foreign, in other local companies, are governed by special rules.

Among the guidelines for evaluating the desirability of investments are their impact on the balance of payments, increase of exports, reduction of imports, incorporation of technology, absorption of local and joint ventures with nationals.24

A treaty between Argentina and Germany granting the most favorable treatment to goods originating in each of the signatory countries has been approved. The Treaty's duration is for five years renewable for one-year periods. It was entered into in Berlin on May 30, 1975. Concessions granted by either country to neighboring nations, or under regional promotion agreements such as LAFTA, are excluded. Exercising the authority granted it by law, the Executive Branch, in addition, has decreed that taxation of interest and royalties derived from Argentine sources by German nationals during 1975 will be governed by special transitional rules.25

BOLIVIA

Within the Fiscal Policy Area, various tax laws have been the subject of minor changes. Current national and municipal admission taxes have been unified in a single admission tax to be collected by the municipalities. The rate ranges from 2.5% of the value of the ticket for international soccer games, to thirty percent for theatre tickets where foreign motion pictures are exhibited. The tax has been imposed retroactively from January 1, 1977. The taxable event is the sale of tickets, and the taxpayer is the spectator. Thus, the tax applies even where the show is for charitable purposes.26

Pursuant to two new statutes, there has been an overhaul of the stamp tax. Documents showing the formation of companies or capital increases are taxed at the rate of one-per-thousand of the capital or of the increase; transfers of real property are taxed at a five-per-thousand rate on the appraisal value of the property; financial statements submitted to the Revenue Service offices pay one-half-per-thousand computed on capital and reinvestment. The party benefited by a taxable document is liable for payment of the tax, except in credit transactions, and sales of real estate, where the liability rests on the debtor and the purchaser. Documents, deeds, contracts and certificates subject to tax shall have no legal effect until the stamp tax has been paid. Documents executed abroad must have stamps affixed prior to their

presentation, execution or payment in Bolivia. The changes also relate to the payment of tax on transactions before notary publics, on registration of patents and trademarks, and on biddings for public works.27

The tax on income of enterprises has been amended with respect to interest from development loans. Under the amendments, the exemption from income tax will only apply to interest from loans granted by foreign financial and banking institutions to banks established within the country. Before the amendment, development loans granted by foreign or local banks to domestic banks or to local companies were exempt from income tax.28

The taxation of gains from the sale of real estate has been suspended as of January 1, 1977, and until appraisal of urban and rural real property is updated.29

On February 4, 1977 important changes in the import duty tariff entered into effect. The duty on chemicals, synthetic textiles, cable, iron wire, metallic equipment for the construction industry, engines, electric parts, toys, and office equipment, among others, have been reduced. Besides duty revision, the new decree adapts the structure of the Bolivian tariff to the Nomenclature of the Common Tariff for the Andean Subregion as updated to May 1975. Other provisions allowed goods-in-transit to be imported under the old tariff no later than April 30, 1977.30

In accordance with commitments undertaken under LAFTA, Bolivia has issued the list of products that may be entitled to reduced import duties when originating from Uruguay and imported on or before March 18, 1980. Among the goods listed are dairy cattle, frozen fish, wheat, barley, vaccines, paper, books, wool, pipes, pressure cookers, home appliances, magnetic tape, and parts for various industrial machine tools. Most of the goods are subject to a duty which ranges from zero up to twenty-five percent ad valorem for home appliances.31 However, in accordance with the Andean Agreement for Subregional Integration, Bolivia has revised the duties on certain goods produced within the subregion. The progressively higher duties do not apply to goods produced in Ecuador. The present decree establishes the duties applicable to certain machinery until December 31, 1977, from January 1, 1978 to December 31, 1978, and from January 1, 1979.32 In view of the withdrawal of Chile from the Andean Pact, as declared by Cartagena Commission Decision 102, imports originating from Chile are to be treated in Bolivia as imports from countries outside the Pact. The new Decree does not affect the import duty concessions granted to Chile under the National List of Bolivia passed in accordance with LAFTA. Nor does it affect the rights and obligations of Chile under Cartagena Com-

mission Decisions 40, 46, 56, and 94 relating to double taxation, multinational enterprises, land transportation, and Andean route system.33

New real property taxes have been imposed pursuant to two new decrees. One decree provides that the appraisal value will determine the amount of the indemnity in all cases of condemnation of urban real property. The real property tax applies on the updated appraisal at a thirty-five percent rate. The tax on transfers of urban real property applies at an 4.5% rate on the value of transfer or on the appraisal value, whichever is higher. The tax applies to transfers representing contributions to the capital of companies, except if the company is a corporation. The tax on imputed rental value of urban property has been repealed.34

The single tax on beer payable by producers on the prices fixed by the Executive Branch has been repealed. In its stead, a new single excise tax has been created. The rate is sixty-seven percent of the selling price ex-factory, as fixed by the new statute. The new tax supersedes the tax which applied a 120 percent tax on the selling price. For purposes of the tax, the manufacturer’s price may not be lower than 360 Bolivian pesos per 660 cubic centimeter bottle. Like the repealed tax, the new levy replaces all other taxes on beer.35

Lastly, within Area No. 1, a production tax has been imposed on the 1976-1977 cotton crop. The tax applies at a thirty percent rate on the excess of the average selling price over United States $70 per hundredweight of cotton fiber. No other tax may be applied. Although the Decree takes into consideration the production cost FAS Santa Cruz port, it does not refer to taxpayers as exporters. In prior years, a similar tax had been levied on exporters rather than on producers.36

Regarding Area No. 2, a special system of tax incentives for the exportation of nontraditional products (all goods of the customs nomenclature except minerals, metals, petroleum and gas) has been approved. The incentives are twofold: exemption from or refund of certain taxes, and a tax credit equivalent to a percentage of the foreign exchange proceeds from exportation. Finished goods will be exempt from export duties; import duty or local sales tax paid on raw materials and containers will be refunded. The tax credit will be ten percent on certain farm products and handicraft, and from five to twenty-five percent on certain industrialized goods. The refunds and credits described above will be represented by tax credit certificates delivered to exporters. The certificates are transferable, are free from all taxes and may be used to pay customs duties three months after their issuance. The new system is contained in sixty-four articles and five annexes. Annex 1 lists products which do not qualify for export duty exemption (coffee, sugar, cocoa, cotton, coke leaves). Annex 2 provides to prove costs in order to obtain tax refunds and credits. Annex 3 lists products which do not

34. Decree-Laws 14375 and 14376. both of February 21, 1977.
qualify for tax credit (live animals, coffee, coke leaves, natural rubber, lumber, furs, cotton etc.). Annex 4 lists products which may not be exported (pure-bred horses, unprocessed furs and skins, antiques, seeds, etc.). Annex 5 lists products which are subject to export license (beef, wool, custom jewelry, etc.).

An inflation-generated measure concerned the revaluation of fixed assets. A new decree orders the revaluation of fixed assets by all private enterprises, except those qualified as small merchants, utilities and small business companies. The revaluation is optional for mining companies, for enterprises which have entered into contracts with the Government, and for enterprises covered by the Investment Promotion Law. The revaluation is to be computed according to the coefficients set forth in the statute. The coefficients apply to the net book value (cost less depreciation) as of December 31, 1976. A five percent tax is levied on the difference between the new value and the net book value. Taxpayers may elect to apply higher coefficients. Values so determined are subject to a six percent tax on the amount exceeding the values determined by the normal coefficients. The increase in book value must be capitalized; the capitalization is free from all taxes except stamp tax. Individual shareholders are not taxed on the stock dividends received because of this capitalization. The revaluation tax is not deductible for income tax purposes. Fixed assets acquired prior to December 31, 1972 are to be revalued by applying a seventy-five percent coefficient. Those acquired in 1973 through 1976 are to be revalued by applying 50, 30, 15, and 5% coefficients, respectively. Assets may be revalued by applying 300, 120, 90, and 60% coefficients if acquired before December 31, 1972, 1973, 1974, or 1975, respectively, but the new value may not exceed current market value. The new values are to be used in computing depreciation allowances for income tax purposes.

In Area No. 4, benefits under the social security system and complementary funds have been revamped. Employers will be directly liable for medical assistance of workers which they unlawfully fail to enroll in the system. The new system is comprised of a compulsory social security insurance for active workers, a voluntary insurance for those whose employment has terminated but wish to remain insured by paying a minimum of twelve monthly contributions, and a complementary insurance through complementary funds. Among the benefits are workers’ compensation, illness expenses, maternity expenses, children allowance, severance pay, survivors’ pensions, old age retirement, and burial expenses.

The Government has banned the formation of new entities for administering compulsory social security insurance or for providing benefits under the existing system, except in localities not covered by such system. The social security system was overhauled with a view to establishing a uniform system for the various existing funds. According to the present decree,

that objective has been frustrated in practice with the delegation of powers to the Universities and to entities purporting to administer benefits for rural workers.\(^{40}\)

In the Tax Administration Area, rules for filing returns accompanied by audited financial statements and for paying a ten percent tax on income previously unreported have been released. The tax returns were to report income derived by December 31, 1975, and were to be filed by May 31, 1977. The ten percent tax may not be deducted in computing income tax of legal entities. Banks and insurance companies, as well as legal entities subject to the income tax on enterprises and mining companies (whose net worth exceeds 10,000,000 Bolivian pesos or whose annual income is in excess of 20,000,000 Bolivian pesos) are required to attach financial statements, with an opinion of external auditors, to their tax returns. Increases in net worth shown by such financial statements are to be subject to the ten percent tax if resulting from previously unreported income.\(^{41}\)

Late filing of income tax returns and financial statements will be penalized with a fine equivalent to one-half percent of the paid-in capital for each month of delay. This fine is in addition to penalties prescribed for late filing by the Tax Code. The new penalty applies to enterprises which do not file income tax returns and financial statements by March 31 of each year, as required by the Income Tax Law, and to enterprises which do not file audited financial statements by April 30 of each year.\(^{42}\)

Special Situations, Area No. 6, includes eased rules on foreign investment. Bolivia has approved Decisions No. 102, No. 109, and No. 110 of the Cartagena Commission whereby important changes have been introduced to Decision 24 of said Commission. Under the changes, foreign investors are allowed to remit profits equivalent to up to twenty percent of the invested capital; remittal of a higher percentage may be authorized by the host country. Also, the percentage of profits which may be entitled to reinvestment privileges has been raised from five percent to seven percent. Other rules tend to vest member countries with powers reserved to the Cartagena Commission under Decision 24 as originally passed. Other changes relate to the inclusion of rules on subregional investments, investments by "mixed companies" (those fifty percent to eighty percent owned by nationals), the computation from January 1, 1974 of the time limit to divest foreign ownership, and the treatment of farming in Bolivia and Ecuador as a basic industry under article 40 of Decision 24.\(^{43}\)

The establishment and organization of new foreign-owned financial institutions and branches of foreign banks are governed by different rules than those applied to the organization of banks and financial institutions owned by domestic capital. If the new investment is in a commercial bank authorized to receive deposits from local sources, the home office is required

\(^{40}\) Supreme Decree 14641 of June 3, 1977.


\(^{42}\) Decree-Law 14624 of May 23, 1977.

\(^{43}\) Decree-Law 14351 of February 14, 1977.
to grant to the Bolivian government a line of credit equivalent to at least 300 percent of the amount of local deposits received. Foreign banks already established in the country must meet such requirement on the basis of deposits received from July 1, 1977. For such line of credit, the Central Bank of Bolivia will pay interest at the LIBOR rate plus one percent per year.\(^4\)

Finally, it is to be noted that the Bolivian Government has ratified the Lima Protocol Additional to the Cartagena Agreement, whereby the Cartagena Agreement is modified and the time periods are extended by three years. Bolivia joined the Andean Pact and approved the Instrument dealing with the accession of Venezuela. The new Protocol was signed in Lima, Peru, on October 30, 1976.\(^5\)

**BRAZIL**

Area No. 1 offers some interesting developments. Important changes in the taxation of income of legal entities and individuals apply from January 1, 1977. Legal entities may now carry forward for four years rather than three, net operating losses, whether or not they have undistributed earnings. The twenty percent allocation to the National Program for the Redistribution of Land, of tax credits for promoted investments has been extended to the fiscal period 1980 (taxable year 1979). The exemption from normal tax granted to gains from sale of real estate will terminate at the end of the fiscal period 1978 (taxable year 1977). Capitalization by mining companies of the depletion allowance has been eased.

Tax changes affecting individuals relate to the standard deduction which has been increased in accordance with the increase of the cost-of-living index; to personal deductions for rent and education, and to exemption of survivors' pensions. New rates for withholding of tax at the source on salaries and fees apply to brackets of income adjusted in accordance with the cost-of-living index.

Broadcasting rights of the 1978 soccer games will be subject to tax at a twenty percent rate. In addition, all legal entities domiciled in Brazil, including sole proprietorships, are to be taxed pursuant to current tax legislation as amended by a new Decree-Law. Among the numerous changes, the following are of special importance: Affiliated companies will be allowed to file consolidated returns under certain conditions, and the consolidated taxable income will be subject to tax at the rate of thirty-two percent rather than thirty percent; investments in affiliated companies are to be appraised not at cost, but by combining the underlying book value of the assets of the subsidiary with the premium or discount upon the acquisition of the shares represented by the aggregate of the value attributable to potential earnings, the market value of the assets over their book value and the value of other intangibles; fixed dividends on preferred stock issued by foreign-controlled companies are deductible if the stock is issued to nonresident lenders who convert their credit into equity, pursuant to the terms to be fixed by the Cen-

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entral Bank; capitalization of amounts representing tax reductions for promoted enterprises is now required.

New rules also apply to: The monetary adjustment of the balance sheet; carryover of losses including those of merged companies; separate accounting of profits for book purposes and for tax purposes; recognition of profits in long-term contracts; taxation of capital gains, only on realization and liability of successor company in corporate reorganizations. The new law has repealed the five percent tax on distributions, has increased the tax on excessive reserves from fifteen percent to twenty-five percent, and has repealed the fifty percent tax on disguised dividends. Instead of the latter, disguised dividends are penalized by adjusting the taxable income of the distributor, which has the effect of controlling inter-company pricing in foreign transactions. Most of the changes entered into effect on January 1, 1978.46

A new Decree-Law has introduced important changes in the taxation of gains from the sale by individuals of shares in corporations and other companies. Such gains are includable in gross income unless the taxpayer elects to pay tax at a twenty-five percent rate. The sale of shares of stock through stock exchanges and sales of any share or quota held for five years are excluded. The same statute contains a provision on withholding of tax on fees paid for freight charges, and amends the rules under which individuals buying and selling real estate as sole proprietors are treated as legal entities. Gains derived from the sale of company shares or quotas are to be reported under “schedule H.” The purchaser is required to withhold one percent of the purchase price on account of the tax levied on the seller.47

In addition, several provisions of the Income Tax Law relating to taxation of individuals have been revised. The maximum amounts of personal deduction for rents and education have been raised; pensions received by retired workers and by those over sixty years old, who enter employment will be exempt from income tax, while fees received through the clerk of any court are subject to five percent withholding tax on account of the individual’s final tax liability. Farm taxable income shall be fifteen percent of gross receipts rather than twenty-five percent.48 Effective October 12, 1977, the gains due to donations among ascendants and descendants, and “mortis causa” transfers are excluded.49

Several import duty increases due to expire on December 31, 1976 were extended to December 31, 1977.50

It has been held that a tax-free capitalization of profits is forfeited where a company spins off a business within five years from such capitalization, because the spin-off causes a reduction of capital. According to the Council, the rationale for tax-free capitalizations is the enlargement of business. A spin-off runs counter to such rationale. However, the amount of

47. Decree-Law 1510 of December 27, 1976.
the capital decrease is not a disguised distribution for purposes of the fifty percent tax levied on disguised dividends. It is an apparent distribution.\footnote{Decision 103P-01-210 of November 16, 1976, Taxpayers Council.}

Effective January 1, 1977, several items of the industrialized products tax have been subject to lower tax rates. A table containing changes affecting the rate fixed in the 1973 tariff, including those mentioned above, has been released. The table released restates the tax rate applicable to each item of the tariff.\footnote{Decrees 78911 of December 7, 1976 and 78976 of December 20, 1976. Declaratory Act CST 23 of January 19, 1977.}

Ten decrees have been passed in compliance with the commitments undertaken by Brazil under the Treaty of Montevideo. Revisions have been made in the National List of Brazil for goods from LAFTA countries entitled to tariff reductions and exemptions, and in the Special Lists of Benefits to products originating from Bolivia, Ecuador, Paraguay and Uruguay.

Important concessions have been granted to other imports originating in certain LAFTA countries. These concessions apply to chemicals, dye and pigments, photographic industry products, pharmaceuticals, petrochemicals, and to special imports from Ecuador. Additional protocols to various Complementation Agreements were signed in Montevideo in November 1976. Imports from the countries covered by each decree and from the less-developed countries of Bolivia, Ecuador, and Paraguay will be entitled to import duty benefits as specified in Annexes to each Protocol.\footnote{Decrees 79196 through 79204, all of February 3, 1977 and Decree 79230 of February 9, 1977.}

An important ruling implementing the provisions of the Income Tax Law relating to the depletion allowance for mining companies has been released. Among the matters covered by the ruling are eligibility of enterprises entitled to the depletion allowance, kinds of deposits or mines contemplated by the statutory provisions, determination of the amount on which the allowance is to be based, computation, ceiling and bookkeeping of the allowance, capitalization of the amounts thus shown as reserves in the balance sheet, exclusion of leased mines from depletion privileges, etc. The ruling points out that two different and alternative methods for treating mineral depletion may be elected. Twenty percent of gross income derived during the first ten years of exploitation may be deducted in any fiscal year, without any monetary adjustment. Operating profits may be charged in each fiscal year with the amount attributable to the reduction in value of the mineral resources due to their exploitation. According to the present ruling, prospecting expenses and disbursements for the procurement of the concession decree comprise the cost of acquiring mineral resources, monetarily adjusted, provided that such expenses and disbursements have not been entered on the books as a deduction.\footnote{Opinion Ruling 44 of June 27, 1977.}
The administration of fiscal incentives has been revised with respect to income from promoted projects. A new Decree-Law provides that no income from such projects attributable to the investment of tax monies may be remitted abroad under penalty of paying the tax waived with a ten percent fine per annum plus other penalties for failure to pay taxes.55

The Ministry of the Treasury has construed the text of the law which grants exemption from normal and withholding income tax to gains derived by legal entities from the sale of real estate used in business. It ruled that the termination of the exemption by "the fiscal year 1978" refers to the calendar year in which the sales take place rather than to the government fiscal period 1978 (taxable year 1977). Thus, sales made up to December 31, 1978 are entitled to the exemption if all other conditions are met.56

Also within the Tax Policy Area, collection of consular fees on bills of lading and on any other document referring to international transportation of persons or goods has been declared abolished as of August 10, 1977.57

Superseding the existing law, a new export tax has been imposed effective October 12, 1977. The new levy applies at the rate of ten percent of the FOB value; this rate may be reduced or increased by the Executive Branch. The National Monetary Council has been charged with listing the products to be subjected to the tax. Special rules deal with determination of the FOB value, the taxable event, the definition of "exporter," and other technical concepts.58

The amount of withholding tax levied on producers of foreign motion pictures, which has to be deposited by the domestic distributor or importer to the credit of the Brazilian Film Enterprise S.A. (EMBRAFILMS), has been increased from forty percent to seventy percent of the tax withheld, effective December 23, 1977.59

Regarding Area No. 2, fixed interest securities and monetary adjustment of time deposits and certain negotiable instruments are taxed in accordance with the rates and rules set forth in a new statute. Its provisions apply to securities issued on or after January 1, 1977.

A fifteen percent withholding tax is levied on gross profits from financing of future transactions.

Taxation of farming enterprises has been made more severe, while transfers of transfer of quotas of tax incentive funds have been liberalized.

The new statute revises the procedure for withholding of tax on payments ordered by judicial decree and limits the amount deductible by individuals for interest paid. The new statute amends the rates imposed on income from fixed interest securities. In addition, within the limits allowed by

specific legislation, individuals may credit against the income tax payable in
corssance with their return an amount equivalent to up to a maximum of
forty-two percent of the sums that they voluntarily and actually invest in the
taxable year in subscribing to shares of the Bank of Amazonia, S.A. Indi-
viduals engaged in farming will be taxed at a twenty-five percent rate
rather than five percent on income exceeding statutory limits. The transfer
of quotas of the tax incentive Funds may be made by single endorsement.
Clearer rules for withholding of the five percent tax on fees and indemnities
fixed by judicial decree have been set forth in the present statute. The new
provisions apply to income subject to withholding from January 1, 1977 and
to income to be reported in returns to be filed in 1978.60

The income tax exemption granted to trading companies engaged in ex-
porting industrialized products has been extended up to and including the
fiscal period 1980 (taxable year 1979), and the computation of the credit for
industrialized products tax has been revised.61

From January 1, 1977, no longer are incentives for forestation granted
to legal entities in the terms provided for in current law. Individuals may
credit against the income tax payable by them up to twenty percent (forty-
two percent in projects located in the Northeast or Amazon Region) of the
amounts invested in approved forestation projects. From and including the
fiscal year 1976, legal entities are allowed to credit against the income tax
payable by them, the percentages fixed in current law, in the manner
prescribed in a new decree regulating tax incentives for the promotion of
forestry.62

The law on incentives for tourism has been revised to the effect that the
percentage of the income tax payable by legal entities which may be applied
to the purchase of shares of the General Fund for Tourism (FUNGETUR)
shall be twelve percent.63

Two laws affecting taxation of electric power companies have been
passed. Under one statute, from May 1, 1977, electric power companies are
required to adjust the book value of their fixed assets pursuant to the
general rules in force from January 1, 1974. Up to and including the fiscal
period 1979 (taxable year 1978), electric power companies will pay income
tax at a six percent rate and will not be allowed any tax incentive credit
against the tax payable. Under the other statute, imports by such companies
for priority projects will be exempt from duties and from industrialized
products tax, and imported capital assets may be granted up to eighty per-
cent reduction of import duties.64

Implementing legislation which allows the tax-free revaluation of assets
by enterprises which are recapitalized or expanded, the Commission for
Consolidation and Merger of Enterprises has issued a Resolution which sets

forth the procedure to apply for such tax benefits and the industries which are eligible. The benefits will be granted up to June 30, 1978. Special rules apply to real estate not indispensable to the business. If a company holds real estate which is not indispensable to the business, it does not qualify for the benefits provided in the present decree. However, it may be eligible for such benefits if it sells the real estate no later than twelve months after applying for such benefits. The amount of gain from such sale, which exceeds the monetarily adjusted book value, will be exempt from income tax if it is capitalized. According to the present Resolution, the industries qualified for the tax benefits are those producing foodstuffs, apparel, shoes, furniture, appliances, paper, auto parts, machinery and building materials, and those producing any goods for exportation or rendering services connected with exportation.65

A special credit against the industrialized products tax is now available for steel mills. It applies on transactions performed between May 1, 1977 and December 31, 1986. The amount of the credit must be deposited in the Bank of Brazil, S.A. for its subsequent reinvestment in expanding the plant or acquiring shares of other steel companies. Upon such investment, the amount of the credit must be capitalized for five years. The capitalization shall be free from income tax on capitalizations and on excessive reserves. A complex formula is set forth in the new Decree-Law for computing the credit. The amounts not applied in approved investments by December 31 of each year following that in which they were deposited in the Bank of Brazil, S.A. will be transferred to the Federal Treasury.66

Tax incentives for enterprises established in the Amazon and Northeast regions have been extended under new conditions. Industrial or farming undertakings which are established, modernized, expanded or diversified up to and including the fiscal period 1982 shall be exempt from income tax for ten years beginning from the year in which operations are started. The modernization, expansion or diversification must result in at least fifty percent increase of capacity. The ten-year period may be increased up to fifteen years for new undertakings meeting the conditions set forth in the new statute. Industrial, farming, stock-raising and basic service enterprises established in the above mentioned regions may deposit in the Bank of Amazonia, S.A. or in the Bank of the Northeast, respectively, one half of the tax due by them, increased by fifty percent thereof with their own funds to finance technical-economic projects for modernization, complementation, expansion, or diversification.67

Up to and including the fiscal period 1982 (taxable year 1981) several tax benefits currently granted for the promotion of the fishing industry will remain in effect. Among such benefits are import duty and industrialized products tax exemptions, an income tax exemption for fishing enterprises.

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and a tax credit against the income tax payable by any legal entity for amounts invested in approved fishing projects.\footnote{Decree-Law 1594 of December 22, 1977.}

In Area No. 3, one inflation-generated measure was the updating of cruzeiro values. 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 applies from the fiscal period 1977 (taxable year 1976). A table of the values expressed in cruzeiros in the Income Tax Law as consolidated in 1975, adjusted pursuant to such coefficient and rounded-off to the closest hundredths of cruzeiros has been approved. Brackets of taxable income for individuals were adjusted according to the aforementioned coefficient. The table identifies each provision in which values are expressed in cruzeiros, the amount stated in the statute as consolidated in 1975, and the updated amount. Some seventy provisions are listed.\footnote{Portaria 473 of December 3, 1976 and Ruling Instruction 37 of December 6, 1976.}

Congress has ordered that any coefficient set forth in current legislation or by contract for indexation of monetary obligations be replaced by the coefficient stated for adjustment of the par value of readjustable National Treasury Bonds.

The indexation of salaries, of certain social security benefits, of contracts entered into by financial institutions, and of goods or services to be delivered in the future are excluded. The social security benefits included from the application of the new law are family subsidy, maximum salary subject to social security contributions, workers' benefits, etc. The indexation of the price of goods and services may be adjusted in accordance with the increase of the production cost or of the raw material utilized.\footnote{Law 6423 of June 17, 1977.}

Within the Social Security Systems Area, Congress has passed a law regulating private institutions for social welfare. Such institutions are defined as those whose purpose is to establish private plans for granting pensions, annuities or benefits complementary or similar to those granted by current social welfare programs. The plans may be financed by contributions from the insured, or by contributions from their respective employers, or from contributions of both, the insured and their employers. The law provides for two classes of institutions: close institutions if access to them is restricted exclusively to the employees of one enterprise or of one group of enterprises, designated as sponsors; all other institutions are regarded as open institutions. Close institutions may not be organized for profit. Open institutions may or may not be so organized. Close institutions shall operate under the jurisdiction of the Ministry for Social Welfare and Assistance, while open institutions shall operate under the jurisdiction of the authorities of the National System for Private Insurance. The Ministry of Social Welfare and Assistance has been charged with issuing rules for the operation of close institutions, within the numerous guidelines set forth in the statute. The law sets limits to the amount of annuity and pensions that may
be granted by close institutions. While the law is to enter into effect 120 days from its publication, the Executive Branch is to issue regulations within 180 days therefrom.\textsuperscript{71}

Also, Congress has enacted a law whereby social security authorities are reorganized under a new "National System for Social Welfare and Assistance," to be in operation by July 1, 1978. The new system is comprised of the National Institute for Social Welfare, the National Institute for Medical Assistance, the Brazilian Foundation for Assistance, the National Foundation for the Welfare of Children, the Enterprise for the Processing of Social Welfare Data, and the Institute for Financial Administration of the Social Welfare and Assistance.\textsuperscript{72}

Concerning Area No. 5, a ruling analyzing the effect of a request for advance ruling on application of the industrialized products tax has been released. It holds that, while the request suspends all administrative action on the matter until the thirtieth day following notice of an adverse ruling, the request does not suspend the time period for paying taxes withheld at the source or resulting from tax returns.\textsuperscript{73}

Lastly, Special Situations, Area No. 6, features the implementation of two tax treaties. Regulations implementing the tax treaty with Germany and the treaty with Austria have been issued. One regulation fixes at fifteen percent the rate of the Brazilian income tax applicable to royalties and fees for technical services received by German nationals. The other fixes at fifteen percent the rate of tax levied on dividends, branch profits and royalties; however, royalties and fees for technical assistance paid to a controlling Austrian company are taxed at a twenty-five percent rate. The new rules apply to income items derived by residents or domiciliaries of Germany and Austria from Brazilian sources on or after January 1, 1977.\textsuperscript{74}

CHILE

Area No. 1 offers various developments concerning the Income Tax Law. Numerous changes in the Income Tax Law became effective on January 1, 1977. Amendments have been introduced up to March 22, 1977. The most important change is the reduction of the "First Category" tax rate from fifteen percent to ten percent, except that for the taxable years 1976, 1977, 1978, and 1979 the rate is twenty percent, eighteen percent, twelve percent, and twelve percent respectively. Among other important changes are the inclusion of certain activities such as radio and television broadcasting among those subject to the "First Category" tax, new rules on valuation of inventories, on depreciation, and on monetary correction of book values, the taxation of small miners at a progressive rate, lower taxation of earned income, and elimination of the exemption for interest from promissory notes issued in foreign currency. Under the amendments, share of profits

\textsuperscript{71} Law 6435 of July 15, 1977.
\textsuperscript{72} Law 6439 of September 1, 1977.
\textsuperscript{73} Ruling Opinion 67 of September 22, 1977.
\textsuperscript{74} Portarias 469 and 470, both of December 3, 1976.
and remuneration paid by corporations to their directors are subject to withholding on account of the income tax, at a fifteen percent rate rather than ten percent as prior to this reform. Other amendments affect rules on tax returns, payment of estimated tax, withholding of tax, etc.75

Income earned by individuals from May 1, 1977 is subject to a new progressive rate. The progressive rate applicable to overall income of individuals will be taxed according to a new schedule, beginning with the fiscal period 1978.76

The changes of the Income Tax Law relating to depreciation have been revised again. Accelerated depreciation may be elected by reducing the imputed useful life of fixed assets to one third of the life fixed by the Tax Bureau, provided that the latter is five years or longer. The election applies only with respect to assets acquired or which became operative on or after June 1, 1977. Taxpayers may discontinue at any time the accelerated depreciation method elected under the new provision.77 Also, the Income Tax Law has been amended with respect to the carryover of net operating losses. Losses of years closed after December 31, 1977 may be carried forward to the five immediately following fiscal years.78

The text of the sales and services tax law has been revised so as to integrate the tax on sales with the tax on services. Sales tax rebates for exporters have been terminated. Implementing the new text, the Executive Branch has issued a new list of goods which may be imported tax-free when included in a project for the investment of foreign capital. The Executive Branch has also, exercising the authority granted it by the law, declared in abeyance the fifty percent tax on the sale of foreign currency. The new text creates a fifty percent tax on sales of foreign currency and authorizes the Executive Branch to reduce the rate to 40, 30, 20 or 10%, or to hold the application of the tax in abeyance.79

Effective January 1, 1977, several tax laws, as well as the Tax Code, have been revised. New rules have been passed with respect to: (1) Adjustment of fixed rates of the stamp tax; (2) increase of capital of companies located in Chiloé and other promoted areas; (3) the excise tax on tobacco, and (4) application of the housing tax. The provisions of the Tax Code as now revised deal with notices, adjustment of tax liability according to the cost-of-living index, penalties, and tax refund procedure.80

The Internal Revenue Service has ruled that the special 7.5% on undistributed profits, which is to be paid by Chilean corporations for the account of nonresident stockholders has not been affected by the Income Tax

System enacted in 1974; therefore it remains in full force. The tax does not apply if the shareholder files a sworn declaration of ownership with the payor corporation.\footnote{Circular 131 of November 11, 1976.}

In compliance with commitments undertaken in the Treaty of Montevideo (LAFTA), Chile has revised almost all ad valorem duties contained in the tariff enacted in 1967. The new duties entered into effect on May 2, 1977. They range from ten percent ad valorem to forty-four percent, except for a few items taxed at an eight percent rate and others at an 11.5% rate. In addition, the National List of Chile granting import duty concessions to LAFTA countries has been revised and extended. Special concessions are granted to imports from Bolivia, Uruguay and Paraguay. The new list applies from January 1, 1977 through December 31, 1977.\footnote{Decree 353 of April 28, 1977 and Decree 95 of February 2, 1977.}

Effective February 1, 1977, the five percent surtax on cigarettes was reduced to zero. By reducing the surtax imposed to zero, cigarette consumption will be taxed at the fifty-seven percent rate.\footnote{Decree 63 of January 26, 1977.}

New rules govern taxation of cooperative associations. Cooperatives are subject to income tax, to revaluation of capital and to withholding of tax on interest paid to their members.\footnote{Decree-Law 1681 of January 4, 1977.}

Exercising the authority vested in it by a recent law, the Executive Branch has reduced the stamp tax on instruments reflecting transfers of real property from four percent to one percent. The Executive Branch has been authorized to reduce further or to eliminate the aforementioned tax on such transfers. The tax does not apply to real property contributed to the capital of companies.\footnote{Decree 354 of April 29, 1977, implementing Decree-Law 1754 of March 18, 1977.}

Automobiles regarded as luxurious under a new statute will be subject to two new taxes. One tax applies at the rate of one hundred percent of the selling price of domestic vehicles or of the cost of imported cars, if either amount exceeds United States $11,000 or its equivalent in local currency. The other tax is levied on imported cars subject to the tax described above. It shall amount to 140 monthly "tax units" payable upon clearance from customs. "Tax units" are defined in the Tax Code as an amount of money fixed by law for tax purposes and adjusted monthly in accordance with the cost-of-living index. The Executive Branch has released a list of the cost of imported automobiles. Following the statutory mandate, the cost of imported automobiles is arrived at by multiplying by four the value of each unit ex-factory. The Executive Branch has been authorized to suspend or eliminate the tax or to change the tax base limit within a year. Furthermore, beginning August 9, 1977, the sale of luxury automobiles and station wagons has been subject to an additional twenty percent sales tax. By luxury
automobiles it is understood to include those which have a selling price or importation value which exceeds 350 "monthly tax units." 86

Complying with international commitments whereby imported goods are not to be subject to taxes higher than those imposed on similar domestic goods, Chile has repealed, effective September 1, 1977, the special excise taxes levied on certain alcoholic beverages and wines, cigarettes, and perfumes and cosmetics. 87

Concerning Area No. 2, tax incentives available to fishing enterprises have been extended to the period January 1 through December 31, 1977. 88

Although foreign investment was welcome in Chile, upon the withdrawal of Chile from the Andean Pact an even more favorable law has been enacted. It entered into effect on March 18, 1977. The tax treatment and foreign exchange controls applicable to the investment are no longer negotiated on a case-by-case basis. In order to reduce bureaucratic red tape, a general system has been established. There is no limitation for the remittance of profits, nor for repatriation of capital, except that no repatriation is allowed in the first three years. Special rules apply to the acquisition of foreign exchange for such remittances and repatriations. Investors may elect to be taxed a straight 49.5% corporate income tax guaranteed not to be increased nor decreased for ten years. Otherwise they are subject to the general income tax system. Existing enterprises may elect to be governed by the new law no later than March 18, 1978. As under the old law, investors are guaranteed non-discriminatory treatment and the repatriation of capital free from taxes up to the amount of the original investment. The excess will be subject to the general tax legislation. Stabilization of import duties on equipment needed to complete the investment may be contracted for. The withdrawal of Chile from the Andean Pact sets her free to govern investments and transfers of technology by nonresidents. 89

Arica has been declared a Free Zone for enterprises engaged in electronic, metallurgical, and chemical industries. Goods may be imported, processed, and re-exported free from all duties and taxes but for a five percent ad valorem tax. Rules for trading between Arica and Iquique Free Zone have been provided for. Goods originating in Iquique and sold in Arica are subject to the five percent ad valorem tax. 90

Recent amendments to the Hydrocarbons Law benefit companies contracting with the State for the exploration and exploitation of oil deposits and companies which are subcontractors of such oil companies. Under the amendments, the Executive Branch is authorized to grant oil contractors exemption from all taxes, including stamp tax and sales tax which directly or indirectly affect the importation of machinery and replacement parts used in

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the performance of such contracts or subcontracts. Subcontractors will be subject to a tax at the rate of twenty percent of their fee in lieu of all other taxes on such remuneration; the Executive Branch may reduce this levy by up to seventy-five percent. Oil companies will be allowed the tax credit for exports to which other exporters are entitled. The twenty percent tax on subcontractors' fees may be reduced by 10, 20, 30, 40, 50, 60, 70 or 75% and this reduction must be stipulated in the respective operating contract, and should not be changed during the life of such contract.91

With regard to Area No. 3, the automatic periodic adjustment of wages, salaries, pensions, and minimum vital salaries has to be applied on the periods set forth in a new statute. Such adjustment was eighteen percent from December 1, 1976.92

Exercising the authority granted it by law, the Executive Branch has ordered the adjustment of wages, salaries, pensions, and minimum vital salaries by eighteen percent, starting July 1, 1977. Minimum vital salaries and hourly wages have been fixed by the Mixed Central Commission for Salaries, for each of the twelve regions in which the country is divided. The minimum vital salary for Santiago has been fixed at 377.55 pesos.93

Retroactive to July 1, 1977, and exercising the power vested in it by a recent law, the Executive Branch has adjusted upwards by 33.6% appraisals and brackets thereof for exemption purposes, of urban and rural property and farmland. The Executive Branch must update appraisals and brackets of appraisal for exemption purposes after July 1, 1977 in accordance with the change in the cost-of-living index for the first six-month period of the year.94

From July 1, 1977, the stamp tax fixed rates have been adjusted upwards by 35.9%. The Executive Branch is authorized to adjust the fixed rates of the stamp tax imposed every January and July by an amount equivalent to one hundred percent of the cost-of-living index change for the preceding six-month period.95

As a measure taken within the Social Security Systems Area, a social security agreement between Chile and Paraguay has been approved. The agreement was signed in Asuncion, Paraguay, on December 16, 1976.96

Regarding Tax Administration, the Tax Code has been amended with respect to collection of tax debts.97

In Area No. 6, one Special Situation stands out. Chile approved the Additional Protocol to the Cartegena Agreement providing for the withdrawal of Chile if the members did not reach an accord by October 30,

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1976. Since no accord was reached, Chile withdrew from the Group except for its obligations under certain decisions of the Cartagena Commission. Legislative approval of the Andean Agreement, the Rules on Foreign Investment and Transfers of Technology, as well as several decrees granting import duty concessions to Andean Pact countries, was repealed as of January 3, 1977.98

COLOMBIA

Within the Fiscal Policy Area, in a 5 to 1 decision, the Council of State has held that upon the enactment of the new income tax system, exemptions contained in the old law terminated. One such exemption is the special reserve of up to ten percent of profits, which Colombian corporations and limited liability companies — those controlled by the Superintendency of Corporations — could form free from corporate normal tax. The Council’s majority reasoned that the incentive method of the income tax system is based on tax credits; therefore, exemptions have been tacitly revoked.99 In the dissenting opinion, the view expressed was that the provision which established the exemption is neither mentioned among those expressly repealed by the new Income Tax Law, nor repugnant to any provision thereof.

The duty for several items of the import duty tariff was revised as of June 15, 1977. Colombia has revised its Tariff Nomenclature to conform to the description of petrochemicals covered by the Sectorial Program for the Development of the Petrochemical Industry approved by Decision 91 of the Cartagena Commission. The changes amount to inclusion of fifteen new items, revision of the description and taxation of thirty-four items, and new ad valorem duties for twenty-six items. The new duties range from five to forty percent ad valorem. In addition, three decrees revising the percentage of the proceeds from exports of industrialized products to be represented by Tax Credit Certificates became effective on January 1, 1978. The new percentages are 12%, 9% or 5%, depending on the product listed in said decrees. All other products originate tax credit certificates equivalent to one-percent-per-thousand of the total amount of the proceeds. Under the old law the percentages were 8%, 5% and one-percent-per-thousand.100

Consistent with the position taken in earlier cases, the Council of State has held that for real property tax purposes, machinery and equipment which comprise a sugar mill are not to be included in the assessment of the land on which the mill operates. According to the Council, articles 655, 656, 658, 660, 661 and 662 of the Civil Code and real property tax provisions of the Decree of 1940 refer to fixtures which become realty because they are attached to the land for the benefit of the land. However, in the case of industrial plants, the machinery comprises the substantial assets of the business and the land merely holds it. Thus, the plant is not realty for real

estate tax purposes. In a dissenting opinion it is held that the Decree regulates the National Assessment Office and expressly includes industrial plants. This decree, being a provision of public law, prevails over Civil Code rules on the matter.\footnote{101}

As no gain is realized until the security is redeemed, where there is a purchase of an indebtedness security at a discount, the Council of State has declared null and void a decree requiring withholding of income tax by sellers of bearer securities below par value. To implement a legislative decree of 1974, which requires withholding of income tax at a forty percent rate on profits generated by bearer securities, the Executive Branch issued another decree of 1976 imposing the withholding on the gain from the purchase of bearer securities for less than their par value. This decree has been declared null and void by the present decision. The Council had previously suspended the decree in the same proceedings, but the suspension was overturned on a procedural issue.\footnote{102}

According to the Cundinamarca Tax Court, the Government may unilaterally modify the tax system originally contracted for in a contract for the concession of exploration and exploitation of oil deposits. Such contract, whereby tax benefits are granted in accordance with the tax laws in effect at the time the contract is entered into, is governed by administrative law rather than by civil law. Therefore, the contracting parties have no vested rights against subsequent changes in the tax laws on which the contract was based. The dissent in two opinions felt that the contract, whether administrative or civil, may not be breached without creating uncertainty and contractual fraud. The law then in effect, the law of 1961, changed the rules on depletion. On March 11, 1972, the Council of State held that that law was to apply to contracts entered under the former. The tax authorities followed the Council of State holding in auditing, in 1973, the taxpayer's returns for 1970.\footnote{103}

Effective on January 1, 1977 and applying to the taxable years 1977 and 1978, the rates for withholding of income tax at the source on salaries, and on dividends paid to resident shareholders, have been revised.\footnote{104}

Within Area No. 2, machinery and auxiliary equipment which constitute the complete installation of plants for the establishment or expansion of industries of economic interest for the country, will be subject to a single ad valorem duty of five percent. The benefit is contingent on prior approval by the National Council for Customs Policy. It will be denied if goods similar to those proposed to be imported are manufactured within Colombia.\footnote{105}

Exercising the authority granted it by decrees regulating foreign investment in mining, the National Council for Economic Policy has determined

\footnotetext{101}{Decision of September 22, 1976, In re Central Castilla Ltda.}
\footnotetext{102}{Decision of March 31, 1977, Council of State, In re E. Pena Quinones.}
\footnotetext{103}{Decision of May 7, 1977, Cundinamarca Tax Court.}
\footnotetext{104}{Decree 2599 of December 13, 1976.}
\footnotetext{105}{Decree 1507 of July 5, 1977.}
the system for the remittance of profits and repatriation of capital by investors in coal mining projects. Capital may be invested in foreign currency, machinery, national currency entitled to be remitted abroad, and pre-investment disbursements. Among the concepts defined in the present regulation are coal mining project, recipient company, foreign company, Colombian branch of foreign company, foreign capital investment, remittable amounts, net profits, and foreign investor's remittable amounts. In the event of sale or liquidation of project, an investor will be entitled to repatriate the proceeds in accordance with the stipulations of the contract approving the investment. The Resolution became effective on December 17, 1976.106

The compulsory social security system which protects employees in the private sector has been overhauled. All workers, whether national or foreign, who render services for private employers under an employment or apprenticeship contract, and retired workers, are required to be insured under the system. Participation is optional for small businessmen and the self-employed. Contributions to the system are computed separately for illness and maternity, workmen's compensation, disability, old age, and death. The employer contribution shall amount to sixty-seven percent of the premium and the employee contribution to thirty-three percent except for workmen's compensation, for which employers shall contribute one hundred percent of the premium. Premiums are a percentage of the payroll, to be established pursuant to recognized actuarial methods. The ceiling of salary subject to contribution is to be established by regulations. The new Decree provides protection against the risks of illness, maternity, accidents at work, professional diseases, disability, old age, death, and family allowances. The authorities in charge of administering the system, penalties for failure to insure workers or to pay contributions, and many other matters, are covered at length by the present Decree.107

Regarding the Tax Administration Area, rules for the issuance of sailing permits on behalf of aliens have been revised by decree. The permit will be issued if the liability for taxes and fines of a departing alien taxpayer is guaranteed in writing by another taxpayer meeting the qualifications set forth in the new decree. Where the guarantor is a company, it must be shown that the manager signing for the company is authorized by the by-laws to grant affidavits to third parties, and that the departing taxpayer is not owner of more than fifty percent of the company capital. The new rules entered into effect on May 18, 1977.108

The Council of State has handed down a decision dealing with the revision of rulings issued at the request of a taxpayer. The tax authorities may be asked to construe tax laws and their application in general terms, and in addition, to give their opinion as to the application of the laws thus construed, to the specific concrete transaction into which the petitioner intends to enter into. According to the Council of State, a ruling interpreting

statutes in general terms, constitutes an administrative act and therefore is subject to appeal. On the other hand, a ruling interpreting statutes in the light of the specific situation described by the petitioner (in the above case, computation of the deduction for future pensions) is a mere orientation or guideline which such petitioner may or may not follow upon filing the tax return. Therefore, the ruling does not create a right nor cause irreparable harm, and for this reason is not an administrative act and may not be subject to appeal. In the above case, the taxpayer described the deduction for the reserve for future pensions which it intended to forego in the current year. If the taxpayer were to take the deduction, the resulting negative reserve would be treated as taxable income. The Chief Counsel took the position that a taxpayer could not forego such deduction if he had taken it in other years. The taxpayer took an appeal before the Council of State against such ruling. In dismissing the appeal, the Council emphasized that under the Colombian income tax system, it was not possible to ascertain the final tax treatment of a concrete transaction until the tax return had been filed and the tax liability had been officially assessed. As to the taxpayer’s argument that the Chief Counsel had the legal duty of rendering opinions, the Council held that the duty refers only to opinions of a general nature.\textsuperscript{109}

Within the area of Special Situations, a provision of the Agrarian Reform Law requiring owners of farmland to provide free education for the children of their workers has been implemented, pursuant to a new decree. The educational assistance may consist of cash allowances equivalent to fifteen percent of the worker’s salary, or be used toward furnishing school premises, or paying tuition and boarding in technical colleges. Under the Agrarian Reform Law of 1961, as amended in 1973, farmland will be regarded as not adequately exploited, and therefore exposed to expropriation, if owners do not show that they are contributing to their workers’ children’s education. The new decree lays down detailed rules on each of the three ways provided therein for contributing to such education. The allowance, for instance, may increase up to thirty percent of a worker’s salary if there are several children from six to fourteen years of age. Several landowners may join to provide school facilities.\textsuperscript{110}

Colombia has adopted the changes introduced in Decision 24 of the Cartagena Commission by Decisions 103 and 109 of said Commission. Under the changes, foreign investors are allowed to remit profits equivalent to up to twenty percent of the invested capital; remittal of a higher percentage may be authorized by the host country. Also, the percentage of profits which may be entitled to reinvestment privileges has been raised from five percent to seven percent. Other rules tend to vest member countries with powers reserved to the Cartagena Commission under Decision 24 as originally passed.\textsuperscript{111}

\textsuperscript{109} Decision of February 17, 1977, Council of State, \textit{In re Carton de Colombia, S.A.}
\textsuperscript{110} Decree 1718 of July 25, 1977.
\textsuperscript{111} Decree 0170 of January 27, 1977.
COSTA RICA

Few significant changes have taken place under the Fiscal Policy Area. Congress has construed two provisions of the Tax Reform Law. One provision relates to the exemption from income tax of pensions paid to public servants, which amended the Income Tax Law; the other provision relates to the newly created tax on real property transfers, which created the tax. As now interpreted by Congress, the exemption from the real property tax for certain property applies to both parties, transferor and transferee. Congress is also considering the revision of the real property tax and other agrarian reform proposals. In this regard, a new bill has been submitted whereby the appraisal of rural property for mortgage purposes would be used for tax purposes. Since January of 1977, Congress has been considering a reform of rural property law and tax.  

Two decrees granting exemption from the selective consumption tax have been passed. One decree declares that educational material used in schools and colleges shall be exempt from September 15, 1977. The other decree grants exemption to slot machines, whether imported or domestic, effective August 25, 1977. The exemption of imported educational material will be allowed for the products listed in the decree, only if such products are not manufactured locally.

Exercising the authority granted it by law to regulate the economy, the Executive Branch has reduced the rates of the selective consumption tax applicable to a large number of consumer products and household appliances. Special rates for vehicles not assembled in Costa Rica have been extended until June 30, 1977.

The only other area that legislation has affected is Area No. 2. Under a new statute, small manufacturers and craftmen who meet the requirements set forth by it may import free from customs duty and stabilization tax, machinery, tools, equipment, and raw materials to be used by them. The benefit of tax credit certificates for exports of nontraditional products has been extended to handicraft products under new rules. These rules do not apply to goods produced by alien craftmen or by legal entities owned by nonresidents.

Two decrees aiding exportation of industrialized products have been passed. One extends to handicraft enterprises (as long as its owner is not an alien craftsman or a legal entity owned by nonresidents) the rules and regulations on credit certificates for exporters of nontraditional products. The other decree allows exporters to import samples for research free from all taxes and duties. No limits as to the number of employees or amount of capital invested in machinery are contained in the new rules.

Tax benefits for hotels have been extended to convention halls. Hotels were allowed to pay selective consumption tax on equipment and material used in their business at the rate of one percent rather than fifteen percent. This benefit may now be enjoyed by convention halls of an international type and will benefit tourism.  

The implementation of income tax holidays, to induce forestry investments, are contemplated in a proposed forestry law. Real property tax will not be levied on land used in afforestation, while land in areas declared forestry reserves will be subject to a property tax progressively increased if they are not used for forestry exploitation. Farmers who invest their own funds, or funds borrowed through National Commercial Banks in the plantation of trees, would be allowed to deduct the investment and related expenses in computing their income tax liability.

Two decrees aiding the dairy industry have been passed. One decree grants exemption from sales tax and from selective consumption tax to milk containers and to machinery and raw materials used in manufacturing them. This decree entered into effect on July 14, 1977.

Another decree grants similar exemptions to imported milk refrigeration equipment, effective July 19, 1977. However, from September 10, 1977, this exemption shall apply only when such equipment is not produced locally.

One last item worth mentioning concerns the steamship industry. As of August 25, 1977, ocean-going vessels and replacement parts for them have been exempted from sales and selective consumption taxes.

DOMINICAN REPUBLIC

Several measures are worth noting under the Fiscal Policy Area. The rate of the progressive tax levied on excess profits from sugar exports has been amended. The change affects the tax payable on the first 100,000 short tons of sugar exported. According to a former law of 1974, no tax applied on the first 100,000 short tons exported if the FAS price Dominican port was less than a certain amount. This amount has been reduced from ten U.S. dollars to seven U.S. dollars per hundredweight by the present law, and the brackets of FAS price subject to the progressive tax have been revised commensurately with the reduction of the price on which the exemption applies.

Accelerated depreciation is allowed for certain industries as to private power plants under the Sixth Rules for the Application of the Income Tax. Industrial and agricultural enterprises, as well as those using refrigerated in-

installations, may depreciate such plants at a twenty percent annual rate.\textsuperscript{122} In addition, the twenty percent ad valorem tax on imported goods, has been extended by Congress, for one more year, beginning on January 1, 1977.\textsuperscript{123}

Congress is considering a bill whereby additional taxes would be imposed for the benefit of the fire departments of the country. The taxes would consist of an additional income tax equivalent to one percent of the income tax liability and an additional excise tax equivalent to one cent per bottle of imported or domestic liquor, package of domestic cigarettes, and box of domestic cigars. The bill has been approved by the House, after a provision imposing the one cent tax on each container or package of foodstuff was eliminated.\textsuperscript{124}

As to other goods, cotton and silk fabric imports have been subject to protective duties under a Law for the Promotion of the Domestic Cotton Industry. The new statute has raised the rate of the unified taxes on imports of cotton and silk fabrics.\textsuperscript{125} Soft drink containers have been subject to a one-third of a one percent Dominican peso tax, since the beginning of 1976.\textsuperscript{126}

Congress has enacted substantial increases in the duties levied on imported automobiles and station wagons. According to the size and value of the automobiles, the duties range from fifty percent to 110% ad valorem. Larger automobiles are taxed, in addition, from 1,000 Dominican Republic dollars to 6,000 Dominican Republic dollars per unit. Replacement parts are subject to a twenty percent ad valorem duty. Automobiles which are equipped with diesel engines shall pay seventy-five percent of the duties established in the new law.\textsuperscript{127}

The only significant change within Area No. 2 concerned the merchant marine. The national merchant marine has been aided by diverse tax benefits. Resident persons engaged in shipbuilding will be allowed to import free from all customs duties, vessels, equipment, and replacement parts. They will be exempt from the tax on fuel used in operating domestic vessels and from all consular fees. In determining taxable income, individuals and legal entities may deduct from gross income the amounts of profits invested in steamship lines using domestic-flag vessels. In order to qualify as a domestic shipbuilder, individuals must be Dominican citizens domiciled within the country, and legal entities must be organized and have their seat within the country. Furthermore, at least seventy percent of the paid-in capital must belong to Dominican individuals or to legal entities domiciled in the Dominican Republic.\textsuperscript{128}

Area No. 6 offers two Special Situations. Foreign investment and transfer of technology would be regulated under a bill submitted to Con-
gress on September 15, and publicly discussed early in October. Among the salient features of the forty-eight-article bill are the following: a company is regarded as "domestic" if more than seventy percent of its equity belongs to nationals; "mixed" companies are those of which fifty-one to seventy percent is owned by nationals; investments are registered in national currency; "foreign" companies are excluded from certain activities; profits in excess of eighteen percent of the registered capital may not be remitted except if derived from exporting or from participation in a "domestic" company; remittable profits not remitted or reinvested within two years are blocked; capital repatriation is allowed, but any capital gains thereon is limited to a two percent per year cumulative to a maximum of twenty percent. Transfers of technology entitle the transferor to receive royalties, but may not be contributed as capital of local companies. The law would apply to existing foreign investment, except for the provisions which reserve certain activities for "domestic" enterprises. Further restrictions and limitations were suggested at public hearings held by the Senate Finance Commission. New foreign investment would no longer be allowed in sugar production, public services, and the media. Manufacturing in the free zones would not be governed by the legislation, a provision to which opposition was raised in the public hearings. An excess profits tax on income in excess of eighteen percent and restriction of transfer of technology available within the country were also suggested in the public hearings.129

In addition, a treaty and protocol with Canada, to avoid double taxation and prevent tax evasion with respect to taxes on income and net worth, has been approved. The treaty limits the withholding tax on interest, royalties and other income not expressly named, to eighteen percent. Double taxation is avoided through a system of tax credits which allows tax sparing for Dominican exemptions granted under the Laws for the Promotion of Industry, of Farming, or of Tourism, with the exception of those exemptions that exceed ten years. The treaty was signed in Ottawa on August 6, 1976. It will enter into effect upon the exchange of Instruments of Ratification in Santo Domingo, Dominican Republic. According to the Protocol, residents of Canada will be entitled to pay withholding tax on dividends in the Dominican Republic at any lower rate accepted by the Dominican Republic, as found in treaties signed in the future with any third country.130

ECUADOR

Several tax changes were enacted during 1977 within the Tax Policy Area. By a Joint Order, coffee exports are heretofore subject to a new tax, in accordance with international market quotations. The tax rate will range from 26.5% on the FOB value, if the price is up to 124.99 U.S. dollars per hundredweight, to thirty-five percent if the price is 250 U.S. dollars or higher.131

Under Ecuadorian law, corporations are not subject to tax but are required to pay a twenty percent tax on undistributed profits for the account of shareholders, or the appropriate 20, 40, or 45% rate on distributed profits. Upon declaring dividends out of accumulated profits, a reliquidation of the tax is required to satisfy the full appropriate rate of tax on dividends, but a credit is granted for the twenty percent tax already paid. No such reliquidation is necessary in the event of distribution of a stock dividend. According to an amendment to the Income Tax Law, which became effective on July 11, 1977, if a cash dividend is declared and at the same time the board decides to increase the corporate capital, the re-liquidation of the tax does not apply to the portion of the dividends which is capitalized. Thus, twenty percent is payable on the cash dividends capitalized, and the 20, 40, or 45% rate (depending on whether the shares are registered, owned by non-residents, or are to the order of bearer) is payable on the cash dividends not capitalized. Upon both declaring a cash dividend and ordering the capital increase, a corporation is to pay the twenty percent on undistributed profits on capitalized dividends, or the appropriate rate on dividends not capitalized.\textsuperscript{132}

Construction companies, whether domestic or foreign, are to deduct administrative expenses incurred by the foreign home office in accordance to new rules. To this effect, the Income Tax Regulations have been revised. Construction companies may deduct as administrative expenses of the foreign home office up to twenty percent of the value of the contract executed within Ecuador, pursuant to article 35 of the Regulations. The Order lays down the requirements that should be met in order to claim such deduction.\textsuperscript{133}

The present ad valorem tax on soft beverages has been revamped. As of October 21, 1977, the tax applies at 22%, 14%, or 8% rates of the manufacturer's selling price, if the container's capacity is up to eight ounces, up to twenty-three ounces, or over twenty-three ounces, respectively.\textsuperscript{134}

The Income Tax Law has been amended with respect to individuals. One amendment declares exempt the first 100,000 sucres received as copyrights by nationals. All implementing provisions limiting such exemption to 5,000 sucres have been amended accordingly. Another amendment allows, as of the taxable year 1977, an additional personal exemption for any child or spouse who is disabled or mentally retarded. The deduction does not apply if the affected person is able to work.\textsuperscript{135}

On the ground that certain exemptions had been overlooked in the latest text of the sales tax law, such text has been suspended and the old legislation superseded by it has been reinstated as of December 30, 1976.\textsuperscript{136}

\textsuperscript{132} Decree 1593 of June 24, 1977, Order 364 of July 20, 1977, Ministry of Finances.
\textsuperscript{133} Order 410 of August 16, 1977, Ministry of Finances.
\textsuperscript{134} Decree 1880 of October 19, 1977.
In order to make Ecuadorian bananas competitive in international markets, all taxes levied on their exportation have been repealed, effective December 29, 1976.\footnote{Decree 983-A of December 14, 1976.}

Television stations are to withhold income tax on rentals paid to non-resident distributors and producers for the use of video tapes, cassettes, and motion pictures, according to a new law. No withholding shall apply if such material is related to scientific, educational, sports, musical, or artistic programs. All others are subject to withholding in the manner prescribed in the Income Tax Law for foreign motion pictures. A transitional provision of the new statute reads: "Amounts which television stations have already paid under article 15 of the Income Tax Law shall be treated as a production cost item for purposes of declaring and paying income tax." The Income Tax Law provides that exhibitors and distributors of "foreign motion pictures" are required to withhold income tax in the manner prescribed therein. As television stations commenced operating in Ecuador after the law was passed, application of the text referring to "motion pictures," rentals from video cassettes, video tapes, and other films for televised broadcasting, was not clear. Since the intent of the new statute is to clarify an uncertain tax treatment, it is presumed that the very ambiguous transitional provision as translated above really means that if tax on material now declared to have been exempt has been paid prior to the enactment of the clarifying statute, it will not be refunded, but the payor of the rental may treat it as an additional rental expense.\footnote{Decree 1350 of April 14, 1977.}

New rules govern capitalization of reserves resulting from revaluation of fixed assets. The revaluation must be authorized by the Ministry of Finances. The new rules deal with capitalization of the increase in value of such items as depreciable assets, distribution of profits resulting from the revaluation, and appraisals.\footnote{Resolution 6419 of June 3, 1977, Superintendency of Companies.}

Pursuant to new legislation, financial institutions may deduct bad debts and technical reserves in the manner provided for in the Income Tax Law and regulations pertaining to banks. The deductions allowed by such provisions are subject to the rules passed by the Superintendency of Banks.\footnote{Decree 1119 of January 31, 1977.} Interest derived from bank acceptances traded in the open market by the Central Bank has been exempted from income tax since April 18, 1977.\footnote{Decree 1353 of April 18, 1977.}

Area No. 2 is highlighted by new Tourist Promotion Law regulations. Regulations under the law that create tax benefits for manufacturing enterprises located in promoted areas are now in effect. The tax benefits available have been extended to income tax and commercial transactions tax. A list of eligible industries and minimum capacity requirements are provided. The income tax benefits consist of a ten year exemption for profits from the benefited activity, and a one hundred percent increase in the personal ex-
emptions claimable by individuals working for such enterprises. The new statute has also extended the time period to other tax benefits. The Order provides that permanent employees of such enterprises must have their place of abode in the same province where the enterprise is located, in order to claim the one hundred percent increase in personal exemptions granted. 142

The tax rebate granted, via tax credit certificates to processors of cocoa who export their output, has been reduced five percent ad valorem. Under the Industrial Promotion Law, exporting enterprises receive Tax Credit Certificates usable only to pay income tax and surcharges thereon. The issuance and use of such certificates has been regulated by the Ministry of Finances. 143

With respect to Area No. 4, two decrees introducing changes in the Compulsory Social Security Law have been passed. One decree revokes an earlier provision imposing compulsory retirement of employees who had contributed to the system for forty years or more. Another decree bars anyone who has been found liable for the death of either an employee or employee's survivor preferential right, from receiving dismissal indemnity attributable to such employee. 144

Pursuant to recent changes in the Compulsory Social Security Law, the Social Security Institute has been authorized to fix a ceiling on the amount of disability, old age, and death pensions, although contributions are to be paid in proportion to the actual remuneration received by the insured. An amendment was passed to ratify earlier Ordinances of the Institute and provided that the maximum salary to compute in ascertaining pensions was 16,000 sucres, while contributions were to be applied on the basis of the actual remuneration. 145

Regarding Area No. 5, Tax Administration, the Taxpayers’ Registry is governed by new rules. Provisions such as those dealing with the procedure for enrolling in the Registry, and the usage of taxpayers’ identification numbers have been released. 146

Within Area No. 6, important changes on the Foreign Investment Policy were enacted. Ecuador has adopted the changes introduced by Decision 24 and Decision 109 of the Cartagena Commission. The changes relate to rules on subregional investments and treatment of farming in Bolivia and Ecuador as basic industry.

Implementing the latest revision of Decision 24, a Ministerial Resolution has fixed 14.60% to be the percentage of profits remittable during 1976. As of July 26, 1977, the provisions of Chapter 2 in Decision 24 of the Car-

146. Order 098 of March 14, 1977, Ministry of Finances and Public Credit.
tagena Commission are not applied to foreign companies furnishing electric power. All other provisions of Decision 24 do apply to such companies.147

EL SALVADOR

Pursuant to a new decree, which pertains to the Fiscal Policy Area, the consumption tax on domestic and imported luxury items which was to expire on February 28, 1977, has been extended for two years beginning March 1, 1977.148

The tax levied on each large bag or packaging material containing synthetic fibers shall not apply if the bags or material are exported. The new decree was designed to protect local manufacturers of bags made of vegetal fibers.149

As of June 29, 1977, processed coffee sold within the country will no longer be subject to export tax, pursuant to amendments introduced in the Coffee Export Tax Law. Other amendments provide that coffee growers are not subject to income tax as long as the export tax law is in force.150

Congress has authorized the operation of foreign-trade stores in the maritime ports of the country. Goods originating from abroad or manufactured locally may be sold to departing passengers, crew members, or owners of other foreign-trade stores, free from sales tax and import duties. The new Decree became effective on June 18, 1977. It will be administered by the Customs Bureau, with respect to import duties control, and by the Bureau of Indirect Taxes, with respect to sales tax control. The Treasury has been charged with issuing regulations under the new statute.151

The amount of current or future education material entitled to importation free from duties has been expanded. The changes entered into effect on September 21, 1977. Numerous educational materials and visual aids used in teaching institutions have been exempted from import duties. Among the products added by the present decree are calculators, recorders, chemical products for laboratory use, photographic cameras, etc.152

Concerning Area No.5, the right of the tax authorities to scrutinize the value of property involved in transactions subject to the real property transfer tax, shall be barred after three years from the date of payment of the tax computed on the value fixed in the contract. No provision concerning the statute of limitations is contained in said Legislative Decree. Taxes paid prior to May 5, 1977 may be audited up to May 5, 1980.153

149. Legislative Decree 213 of March 4, 1977.
152. Legislative Decree 353 of September 6, 1977.
Application of the new rules on certification of financial statements attached to income tax returns by legal entities has been postponed. Such rules are to be complied with by companies which end their fiscal year by December 31, 1980 or thereafter.¹⁵⁴

Lastly, in Area No. 6, Special Situations, Congress has ratified, with some changes, the Third Protocol to the Central American Agreement on Tax Incentives to Industrial Development. Congress has also ratified the proposed extensions to December 31, 1983 for the Second Protocol to such Agreement, and to November 8, 1983 for 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. El Salvador has not ratified this clause. The Third Protocol has been signed in San Jose, Costa Rica, by representatives of El Salvador, Guatemala, Nicaragua and Costa Rica. It includes exporting enterprises and handicraft among the beneficiaries of tax incentives. The Second Protocol, as now extended, will apply to qualified enterprises whose import duty exemption under the previous Protocol would have expired between January 1, 1973 and December 31, 1983.¹⁵⁵

GUATEMALA

With regard to Area No. 1, a new tax, equivalent to six percent of the amount of the sea freight charged on all goods imported into the country, has been created. The new levy is payable by national and foreign steamship lines and will be in effect for ten years starting sixty days after the new law enters into effect.¹⁵⁶

As of August 11, 1977, the import duty on automobiles has been reduced to forty percent ad valorem, and the ten percent surcharge on the first sale of automobiles has been repealed. The import duty referred to above will be increased by four percent for each one hundred quetzales if the CIF price exceeds 6,500 quetzales, but in no event shall the total tax exceed one hundred percent of the value of the vehicle. The new rate applies to passenger vehicles, including station wagons, race cars, and three-wheel cars.¹⁵⁷

For five years commencing September 17, 1977, educational material imported by public and private institutions engaged in the rehabilitation of retarded children will be exempt from all customs duties. The exemption applies to duties, surcharges, customs fees, stamp tax, and sealed paper used in processing importation of books, apparatus, and any other equipment used for the treatment and rehabilitation of retarded children.¹⁵⁸

¹⁵⁵. Legislative Decree 398 of November 18, 1977.
Area No. 2 favors the domestic merchant marine pursuant to a new law. For ten years after the new law goes into effect, steamship lines no less than seventy-five percent owned by domestic capital will be free from all taxes on the importation of ships and accessories. The new law entered into effect within sixty days from its publication.\(^{159}\)

Within Area No. 4, all employees have been covered by the social security rules relating to disability, old age, and survivors' protection as of March 1, 1977. To finance the program, employers must pay a three percent payroll tax and employees, one and one-half percent of their salaries.\(^{160}\)

As a Tax Administration measure, the Income Tax Bureau has been authorized to reduce by up to ninety percent the fine to be assessed for failure to acquire reconstruction bonds. The fine reduction is contingent on acquiring the total amount of bonds by no later than May 31, 1977. Fines assessed, but not yet paid, for failure to acquire such bonds also qualify for the fine reduction.\(^{161}\)

Finally, in Area No. 6, Guatemala has approved the Rules on protective import duties for domestic manufacturing, under the General Treaty for Economic Integration of Central America. The Rules became effective on February 10, 1977. Under Article IX of the Treaty, signatory countries are barred from granting import duty exemption or reduction to goods originating outside Central America, if similar goods are produced within the area. The Rules approved by the present Order set forth guidelines and procedures to establish whether or not local production is adequate for the purposes of Article IX.\(^{162}\)

HONDURAS

Few significant changes took place within this country during 1977.

Concerning the Fiscal Policy Area, the Government has exempted interest on certain foreign loans from income tax, with the proviso that the proceeds of the loan are to be used for projects which contribute to the economic and social development of the country. The exemption applies to a loan made by the Overseas Private Investment Corporation (OPIC).\(^{163}\)

The computation of the royalty payable by mining companies has been modified. A formula which takes into consideration the income tax rate for adjustment of the royalty, has been in effect since December 23, 1976 and applies to the royalty payable for the taxable year 1976. Under the amendments, the adjusted royalty may not be lower than the amount obtained by taking into consideration the income tax rates. If the royalty exceeds such

\(^{159}\) Legislative Decree 26-77 of December 19, 1977.


\(^{161}\) Order of April 14, 1977, Ministry of Finances.

\(^{162}\) Order 13 of February 9, 1977.

\(^{163}\) Decree 469 of May 27, 1977.
amount, the excess is carried forward as a credit against the royalty tax payable in the year when the adjustment is made.164

Exercising the power vested in it by law, the Executive Branch decreed that fuels derived from oil are included among the goods subject to maximum selling prices. The Executive Branch has been charged with protection of the consumer, and to that end, the President may fix maximum selling prices and may grant import tax exemptions.165

The export duty on fish and shellfish has been reduced as of September 14, 1977. According to a new decree, tax exemptions granted to the fishing industry have expired. By virtue of the reduction, the termination of the exemption will be less unfavorable to the exporting companies.166

MEXICO

Significant tax changes were made in the Fiscal Policy Area. New rules and regulations have been issued regarding a new excess profits tax.

Important changes in the Income Tax Law are applicable as of January 1, 1977. According to such changes, new rules apply to the depreciation of intangibles and to the computation of foreign exchange losses. Net operating losses may be carried forward three years (five years under the old law). In addition, the deduction of fees paid for transfers of technology to nonresidents is contingent on registration of the contract and a ten percent investment credit for new machinery has been established. Several aspects of the tax on income of individuals from securities and real estate sales have also been revised. A new Title has been added, which creates a complementary rate levied on extraordinary gross income of individuals and legal entities engaged in commercial or industrial activities. The statute contains one formula to determine the tax base and another to determine the tax rate. Taxpayers whose fiscal year began before January 1, 1977 and ended thereafter must prorate the tax burden on a daily basis. Other amendments relate to the filing of tax returns, taxation of “minor taxpayers” who elect to be treated as “major taxpayers,” and inclusion and exclusion of income items for purposes of the overall tax payable by individuals. Regulations under the newly imposed excess profits tax became effective on April 15, 1977.

An attempt is made to prevent the levy on profits derived from increased productivity. To this effect, several options are given for computing the tax base. Excess profits derived from exports or from services rendered abroad on behalf of nonresidents, are one hundred percent exempt from the complementary rate. The regulations contain definitions, rules for computing the tax base, five options for offsetting profits from greater productivity, and transitional rules.167

Several tax rates, as well as the Fiscal and Customs Codes, have been revised as of January 1, 1977. The changes relate to the tax on production and consumption of beer, and on wines, liquor and alcoholic beverages, cigars, and automobile use. The Fiscal Code rules on conversion of taxes based on amounts expressed in foreign currency have been revised. The production and consumption of beer is taxed at the rate of 1.75 pesos per litre. Articles 12 and 134 of the Law on Taxes on Sugar and Alcohol, which establish the tax rates for production and bottling have been superseded. Schedule A of article 3 of the Law on Tax on Cigars has also been superseded. Higher rates and new categories of vehicles have been passed under the Law on Tax on Possession and Use of Automobiles, amending articles 11 and 12 thereof. Certain beverages made out of fruit juice will be exempt from the tax on the first sale of bottled beverages and soft drinks.\textsuperscript{168}

The list of goods, gross receipts from the sale of which are taxable at either the 5, 20, 25 or 30 percent rate, has been revised, effective as of January 1, 1977. From that date, gross receipts from sales of fixed assets, receipts of studios and laboratories of the motion picture industry, and receipts of producers from the distribution or rental of Mexican films, will no longer be exempt.\textsuperscript{169}

During 1977, extensions granted for payment of taxes gave rise to an eighteen percent per annum surcharge.

Several tax law provisions are contained in the Revenue Law, continuing prior policies with respect to tax reduction for mercury production and exportation, import duty exemptions for airlines, ad valorem export duties on coffee, cotton, shrimp and crude oil, and exemption of certain items from the two percent surcharge on imports. As provided in earlier laws, mercury will be subject to only fifty percent of the production tax and twenty-five percent of the export duty thereon. Public utilities, carriers and radio and television stations cannot partake of the import and export duty exemptions contemplated in article 725 of the Customs Code, but airlines will remain exempt. Ad valorem export duties will apply on the official price of coffee, cotton, shrimp and crude oil, and by-products thereof. The two percent surcharge on imports shall not apply, in addition to items listed in the law, to goods to be consumed within Mexican free zones, or to be incorporated in products to be exported, or to air pollution control equipment.\textsuperscript{170}

In taxable year 1977, foreign international airlines could have elected to be subject to tax pursuant to a special system. Normal tax at the maximum progressive rate of forty-two percent is to be applied 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. If no such filing is required, the figures must be

\begin{thebibliography}{9}
\bibitem{168} Tax Reform Law of December 30, 1976.
\bibitem{169} Id.
\bibitem{170} Federation Revenue Law of December 30, 1976.
\end{thebibliography}
supported by audited financial statements notarized before the Mexican Consul. Failure to submit such supporting documents will result in the reconstruction of net income, in addition to the assessment of penalties.

After tax profits, reduced by workers' share of profits (eight percent of profit subject to normal tax), are subject to withholding tax at the rate of twenty-one percent. The Circular lists the items which are includable in gross income and sets forth the procedure to elect such tax system. Three payments of estimated tax, each equivalent to twenty-five percent of the income tax paid for the 1976 taxable year, are to be made in the fifth, ninth and twelfth months of the taxable year. Schedules computing the tax pursuant to the elected method, accompanied by copies of supporting foreign returns or home office financial statements, must be filed in the month of July in 1978.  

Exercising the authority vested in it by the Federation Expenditure Law, the Secretary of the Treasury has granted a thirty-three percent subsidy against the tax levied on the first sale of gold and silver. The subsidy applies to sales made during the period from January 1, 1977 through December 31, 1977, provided that certain conditions are met. The tax imposed is levied at a fifteen percent rate computed on the official price of the metal. Only sales made within Mexico by registered sellers qualify for the subsidy.

Eligible manufacturers of basic consumption goods such as foodstuffs, apparel, shoes, and medicines may be granted a subsidy of up to forty percent against import duties on machinery and replacement parts, in accordance with an Order which entered into effect on May 4, 1977. The benefit is designed for small enterprises, the equity and management of which is not controlled by foreigners. The benefit will be granted on a case-by-case basis, within thirty days of the filing of the respective petition, if the following objectives are met: production of goods of social necessity, generation of jobs, increase of exports, substitution for imports, control of inflation, and use of domestic raw materials. The benefit will not be granted to enterprises entitled to other tax incentives, or for machinery produced within the country.

In addition, import and export duties have been revised. As of May 25, 1977, and pursuant to the power vested to the Executive Board by law, import duties applicable to more than 600 products have been revised. Very few items are exempt. Most of the duties range from fifteen to twenty percent ad valorem. Some items such as sports goods and spices are taxed at a fifty percent rate. Liquors and yachts are taxed at a one hundred percent rate. Also revised are import duty tariffs on chemicals, dyes, and pigments. Effective July 1, 1977, special concessions, many of which terminate by December 31, 1977, are granted for such products originating from certain

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LAFTA countries. Certain imports originating from Uruguay and others originating from Ecuador have also been granted import duty concessions. Some of them expire by December 31, 1977. Most of the duties levied on the importation of chemicals, dyes, and pigments apply at a ten percent rate, which is reduced to two percent for imports from the LAFTA countries specified for each item. Among the items from Uruguay listed in one of the decrees are film, microphones, speakers, and bakery ingredients. The listed items from Ecuador include fruits, lumber, dryers, and dairy machinery.174 Also effective on July 1, 1977, were two decrees which amended the export duty tariff with respect to several products. Among the products subject to duty at a nine percent or five percent rate or which are exempt, are bees, sardines, tobacco, logs, coins, pineapples, wire, bars, and copper sheets.175

Pursuant to a new decree, gasoline sold within border zones is no longer exempt from the federal Treasury portion of the tax on gasoline created in 1974. It was held that gasoline now sells in the United States at higher prices than in Mexico.176

Rules implementing the investment credit allowed by the Income Tax Law have been issued by the Secretariat of the Treasury and Public Credit. The Rules list the manufacturing activities regarded as being nationally or socially necessary and therefore, qualified to claim the ten percent investment credit. The investment must be made in new machinery which is to be held in operation for at least four years and which should not cause a cut in jobs within the prior and subsequent six months from its acquisition. Machinery leased under a qualified equipment-leasing contract also qualifies. Enterprises engaged in activities not listed by the Rules, but which export more than fifty percent of their output, also qualify. The investment which cannot be absorbed by the tax of the year in which it is made, may be carried forward indefinitely, but will not entitle the investor to any tax refund. The amount of the credit is not regarded as taxable income.177

The rates of the departure tax levied on all airline passengers have been doubled, effective as of March 28, 1977. The new rates are twenty pesos for passengers departing on domestic flights and one hundred pesos for passengers departing on international flights.178

Certain provisions of the law imposing a tax on consumption of electricity have been revised, effective as of January 1, 1977.179

One final important change in the Fiscal Policy Area concerns the issuance of new regulations under the Income Tax Law, taking effect on October 19, 1977. Among the various matters covered by the new regulations are rules on accounting for inventories and cost of goods sold, including inter-company pricing where foreign companies are affiliated with domestic

176. Id.
purchases. Other rules relate to depreciation allowances, net operating losses, bad debts, provision for pension plans, deduction of interest, charitable contribution, depletion allowance, and exploration expenses. Several provisions cover tax accounting, filing of returns, taxation of income of individuals, and taxation of income from capital investments. The statutory provision for pension plans has been implemented in great detail, covering conditions to be met by qualified plans, application of the fund’s proceeds, and eligibility of employees and their survivors to collect annuities, or pensions from the plan. Benefits under group insurance supplied by employers are also regulated. Taxation of retirement pensions has also been implemented.  

Pertaining to Area No. 2, and according to a new decree implementing regulations effective as of May 17, 1977, exporters will be entitled to tax rebates under more liberal terms than before. Manufacturers, as well as trading companies, may receive a refund of up to one hundred percent of the import duties and indirect taxes levied by the Union, on the goods exported, and on the raw materials consumed in their processing, if at least thirty percent of the cost of such exports originates locally. “Tax Credit Certificates” will be issued to the exporter for the value of the taxes refunded. Such value is to be fixed as a percentage of the FOB value of the product or, if shipped and insured through Mexican carriers, of the CIF value. The percentage must be commensurate with the degree of processing involved, the percentage of the cost which originates locally, and the ratio of annual increase of exports. The “Tax Credit Certificates” may be used exclusively to abate federal taxes which are not earmarked for a specific purpose, are not transferable, and will expire after five years from the date of issuance. The Secretary of Commerce shall fix the percentage of taxes to be refunded for specific exports. Among other things, the regulations contain definitions, rules for computing tax rebates, treatment of containers, and methods for determining the annual increase of exports. The Rules and Instructions embodied in the present Order are complemented by forms to be used in applying for the refund of excise taxes and import duties paid on the raw material used in the exported products.

Continuing prior practices, guidelines for granting tax subsidies to selected industries and activities have been set forth by law. The same statute approved tax refunds authorized by the Executive Branch during 1976 for the promotion of exports. As a general rule, tax subsidies may not exceed fifty percent or seventy-five percent in special situations, of the basic tax paid by the beneficiary. This limitation does not apply to certain activities expressly mentioned by the statute such as book publishing, automobile, and truck assembling, Mexican corporate concessionaries of public property which render services declared to be in the public interest, excise and sales taxes on exported manufactured products, mining companies that process all or part of their output within the country, enterprises

181. Executive Decree of March 31, 1977, as implemented by Order of May 13, 1977.
entitled by law to import duty-free capital assets and supplies, industries declared to be of national interest, and transactions involving the National Workers' Housing Fund. The present law ratifies tax refunds to manufacturers of exported products, exporters of domestic goods, and exporters of Mexican technology and services. 182

Motor vehicle and auto parts manufacturing has been regulated anew, with a view to converting the industry into a source of foreign exchange in the near future. Enterprises complying with the conditions set forth in the new statute, among which are a strict budget of usage and generation of foreign exchange based on the operations of the year 1978, sixty percent of Mexican capital for auto parts manufacturers, and specified percentages of locally made components, will enjoy various tax benefits. The Secretary of the Treasury and Public Credit is authorized to grant to eligible companies up to one hundred percent exemption from import duties, up to one hundred percent reduction of the federal automotive assembly tax, and refund of up to one hundred percent of indirect taxes levied on exported components and vehicles. The Mexican capital requirement for automotive parts manufacturers is to be satisfied by issuing two classes of shares, "A" and "B." Class "A" shares must be registered and must represent at least sixty percent of the total capital. These shares may not be held by aliens or Mexican legal entities owned by aliens. The reduction of the import duty on machinery is contingent on such machinery not being produced within Mexico. 183

A foreign-trade store has been authorized to operate in Mexico City International Airport, pursuant to an Order effective as of August 20, 1977. Foreign-origin goods sold within the store are regarded as goods in transit, and are free from import duties. Domestic goods sold therein will not be subject to export duties. The Customs Bureau has been vested with the power to issue instructions for the control and operation of the premises where goods will be exhibited, stored, and delivered to departing persons. 184

Duty-free import of goods to be assembled and re-exported has been regulated anew by an Executive Order which thus implements the Customs Code. Enterprises may temporarily put in machinery and tools required in the assembly operation. Return of such assets will not be authorized without proof of cancellation of the registration to operate as an assembly plant. Assembly plants must submit a guarantee for the import duties waived. If established plants export their output, the direct cost of national production must be at least twenty percent to qualify for the tax benefits. 185

In Area No. 4, the Social Security Law has been amended with respect to the minimum amount of monthly pensions. This amount has been increased from 600 to 1,000 pesos. According to the new legislative decree, all

pensions have been increased by fifteen percent, except those exceeding 5,000 pesos, which have been increased a fixed amount equivalent to 750 pesos. Detailed rules are provided for computing the increase on pensions for old age, disability, and seniority, depending upon the date of granting of the pensions.\textsuperscript{186}

As a Tax Administration measure, the Secretariat of the Treasury and Public Credit is governed by new Rules. Under the General Bureau for Central Fiscal Administration are the Income Tax Bureau, the Gross Receipts Tax Bureau, and the Internal Tax Bureau. These bureaus, as well as the General Bureau of Customs, are vested with the power to assess tax liabilities, grant extensions for payment of taxes, pass on administrative remedies, and issue rulings on applicability of tax provisions to actual and concrete situations at the request of the interested parties. The new Rules entered into effect on May 24, 1977. The powers of each of the numerous agencies which comprise the Secretariat of the Treasury and Public Credit are stated in detail, including jurisdiction to take cognizance of the administrative remedies set forth in the Fiscal Code. Judicial collection of taxes, fines, and other fiscal debts is incumbent upon the Fiscal Attorney-General of the Federation.\textsuperscript{187}

With respect to Area No. 6, four general resolutions have been handed down by the National Commission for Foreign Investments, in order to expedite proceedings under the Foreign Investment Law. General Resolution No. 12 provides that any new establishment operated by a foreign investor without holding permits from the appropriate authorities, warrants the immediate closing of the establishment, in addition to the assessment of applicable fines. General Resolution No. 13 authorizes the Executive Secretary of the Commission to decide applications for authorization to transfer shares or assets among foreign investors of a common interest group. The Resolution deems that such transfers normally do not produce negative effects on the country’s economy. The acquisitions which may be resolved by the Executive Secretary under Resolution No. 13 are those involving transfers from a foreign company to an affiliated foreign company, a transferor and transferee which are foreign companies controlled by a third foreign company, transfers between a foreign company and one or more of its officers, or those between a nonresident individual and his or her relatives. General Resolution No. 14 authorizes the Executive Secretary of the Commission to pass upon acquisitions of small blocks of shares of Mexican companies by foreign investors. The acquisitions referred to in Resolution No. 14 may not exceed three percent of the Mexican company capital if nonresidents acquired shares owned by Mexican nationals, or five percent if the shares are already owned by foreigners. General Resolution No. 15 authorizes the Executive Secretary of the Commission to pass on relocation of establishments owned by foreign investors, provided that no expansion above certain limits results from such relocation. The relocations permissible under Resolution No. 15 may not result in more than twenty percent ex-

\textsuperscript{186} Legislative Decree of December 29, 1976.
\textsuperscript{187} Executive Order of May 20, 1977.
pansion in size, personnel, or value of assets. This limit is raised to forty percent for relocations in less economically developed areas of the country. Furthermore, the National Commission for Foreign Investments has released guidelines for determining if an expansion proposed by a foreign-owned enterprise requires the prior approval of the Commission. “Expansion” for such purposes may result from entering into a new economic activity or from manufacturing a new product line. In addition to defining such phrases, the Commission has released a list of activities classified in thirty-nine groups which are, in turn, divided into sub-groups. The sub-groups are further divided into classes of activities. Authorization is required to go from one class of activity into another. 188

NICARAGUA

With reference to Area No. 1, as of April 1, 1977, the rate of the sales and selected consumption taxes have been raised with respect to liquors and other alcoholic beverages, from 125% to 136% of the selling price. New rates apply to beer, and certain alcoholic beverages distilled from cane. Alcoholic beverages distilled from cane may be taxed up to 6.00 cordobas per liter, at the discretion of the Executive Branch. 189

From December 23, 1976, exports of coffee have been subject to a new tax at the rate of .05 U.S. dollars per pound. From the same date, equipment and pesticides for the protection of coffee crops have been exempt from import duties. Producers are liable for the tax on coffee already exported, if attributable to the 1976-1977 crop. They are required to attach proof of the withholding of the tax, as issued by the exporters, to their income tax return. 190

The special tax on special and regular gasoline has been increased. Regular gasoline is subject to 0.46415 cordobas per liter and special gasoline, 0.50114 per liter. 191

A new consumption tax has been imposed since May 16, 1977, on motor vehicles assembled within the country, and on those imported from Central American countries. The rate is ten percent on the factory price and on the CIF value, respectively. Vehicles having 4-wheel traction are exempt from the new levy. The Custom Bureau has been charged with administration and collection of the new tax. 192

As a measure taken within Area No. 2, banking operations with persons residing outside Nicaragua will be free from income tax and tax on capital for at least twenty years, according to a new law which became effective on March 14, 1977. Operating units may be branches or subsidiaries of foreign financial institutions. Such institutions must have assets equivalent

192. Executive Decree 5 of March 1, 1977.
to one billion dollars; the branches’ capital must have assets of at least ten million dollars and the subsidiaries, at least twenty million dollars. The tax exemption covers municipal and local, current, or future taxes. It does not cover those taxes payable by the employees of the operating units; the units must also comply with labor laws and social security regulations. Subsidiary companies must be corporations. Such corporations may not issue bearer shares and will be relieved from several requirements prescribed in the Commercial Code.¹⁹³

A Special Situation should be pointed out. Nicaragua proposed to approve the Third Protocol to the Central American Agreement on Fiscal Incentives for Industrial Development. An Extraordinary Meeting of Ministers of the Economy was to be held in San Jose, Costa Rica, beginning August 31, 1977 in order to discuss the Third Protocol referred to above.¹⁹⁴

PANAMA

Significant changes have taken place within the Fiscal Policy Area. Several provisions of the Fiscal Code dealing with the income tax have been modified beginning with the 1977 taxable year. The first bracket of the progressive rate applied to income of legal entities have been eliminated; thus, the first 30,000 balboas of taxable income are subject to a twenty percent rate. Effective as of March 1, 1977, taxable income of individuals below 1,000 balboas is exempt. Other changes affect the withholding tax on undistributed earnings, income paid to nonresidents, the deduction of interest by individuals, and the deduction of medical expenses. As of January 1, 1977, new rates and minimum exemptions also apply to the real property tax.¹⁹⁵

As of February 13, 1977, the tax on beer has been reduced from .15 balboas per litre to .1325 balboas, and the stamp tax has been raised from two balboas to three balboas per sheet of sealed paper.¹⁹⁶

Several laws amending excise taxes and import duties entered into effect on January 1, 1977. The new provisions deal with the taxes on cigarettes, liquor, alcohol, and soft drinks, and with exemptions for governmental agencies. Domestic cigarettes are subject to a 0.25 balboas tax per carton, thus increasing it from 0.20 balboas. The rates of the excise tax on the first sale of soft beverages have been reduced by fifty percent, effective retroactively to May 18, 1976. The new rate is five percent for processed soft beverages and six percent for syrups and concentrates.¹⁹⁷

Pursuant to a law which became effective on December 31, 1976, bonuses paid to workers as profit sharing, at the employer’s discretion, are

not to be regarded as salary. The same statute has extended all union contracts by two years, and has amended the Labor Code accordingly. Employers are entitled to postpone wage increases called for in union contracts whenever they show that the business cannot afford such increases.198

From January 1, 1977, domestic and foreign corporations registered in the Public Registry have been required to pay a fifty-balboa corporate fee annually in order to maintain such registration as operative. Companies failing to pay the fee will not obtain any certification from the Registry, nor will there be a recording of any corporate act.199

A new tax on personal property transfers and services has been issued. According to the new law, as of March 1, 1977, sales of personal property, imports, services for processing goods, and leasings have been subject to a five percent tax on the value of the transaction. The transfer of securities and negotiable instruments is exempt. Sales and imports of goods subject to excise taxes, and exported goods are also exempt. A credit is allowed for the transfer tax levied on raw materials. The new levy is actually an added-value tax. Since exporters are exempt, the credit for the transfer tax paid by them on raw materials will be recognized by tax credit certificates. The persons liable for the tax are the transferor, the importer, the party who renders services, or the lessor. The statute provides that the new tax is not an import tax and therefore, import tax exemptions granted pursuant to promotional laws do not apply to the new levy. Regulations under the new tax on personal property transfers and services became effective on March 1, 1977. Among other provisions, the regulations contain definitions, rules of procedure, rules for filing of returns, for payment of the levy, and for issuance of tax credit certificates on behalf of exporters. They also list the medicines, foodstuffs, and fuels which are exempt from the tax on their transfer or importation. Among the subjects covered by some of the chapters are the taxable event, the tax base, exemptions, and computation of credit for tax paid on raw materials. Tax credit certificates authorized by the new tax on personal property transfers and services are to be issued in the format prescribed by a Resolution of the General Revenue Bureau. Each certificate is broken down into coupons and can be used either by the recipient or his assignee, only to pay the tax on transfers of personal property and services owed by them.200

Subject to certain conditions, companies may pay the tax on imputed dividends levied on forty percent of net income after corporate tax, at the rate of one percent rather than ten percent, provided that such imputed dividends are capitalized within nine months from December 22, 1976. This rate is to be paid in full in the event that the company claiming the benefit of the new law grants loans to its shareholders, redeems their shares, or issues bearer shares, within two years from December 22, 1977.201

The increase of hired workers from January 1, 1977 through December 31, 1978, over the levels of September 30, 1976, will entitle certain enterprises to claim a special deduction in determining taxable income. The benefit is granted to manufacturing, commercial, and farming enterprises.

In addition to normal deductions for labor expenditures, up to seventy-five balboas per month may be deducted for each job created in the fiscal year in which the level of employment is increased with respect to the level of September 30, 1976. The deduction is forty balboas and fifteen balboas for each of the two immediately following fiscal years, respectively.202

Commercial, manufacturing, and farming enterprises may elect to depreciate, from January 1, 1977, new buildings and new fixed assets at the rates allowed in a new law. Buildings may be depreciated over a ten-year period at the rate of ten percent per year, or over a five-year period, if sixty percent is depreciated in the first fiscal year. Assets other than buildings may be depreciated in full in one or more fiscal years, but not beyond five years from the date of acquisition.203

Pursuant to a new law which regulates reinsurance, premiums and profits from reinsuring foreign risks are not subject to income tax. The new statute contains a list of the items which reinsurers are allowed to deduct; technical reserves and certain reserves authorized by the National Commission for Reinsurance are two such items. Amendments have been added, referring to capital and reserves requirements.204

Among the measures enacted in Area No. 2, the five-year exemption from property tax granted for any building or improvement will be extended to ten years if their construction is begun within sixteen months from January 1, 1977. Other changes relate to the lodging tax which is now ten percent of the amount billed. The Taboga District has been declared a

Amendments to the Tourist Promotion Law entered into effect on January 1, 1977. Other changes relate to the lodging tax which is now 10 percent of the amount billed. The Taboga District has been declared a “special tourist zone” for purposes of the law which grants tax benefits to qualified tourist projects located in zones so declared.206

In enacting recent legislation on tax benefits for exporters, the Executive Branch has decreed the issuance of new tax credit certificates to exporters of industrialized products. The certificates are to be used through coupons, for the payment of those taxes mentioned by the statutes creating and governing tax credit certificates. The new certificates may be exchanged for the certificates issued under an earlier decree and outstanding from January 1, 1977. As of August 31, 1977, tax credit certificates received

by exporters of industrialized products will be exempt from all taxes and shall not yield interest.\textsuperscript{205}

From January 1, 1977, manufacturing enterprises which were in operation as of August 24, 1971, may choose to claim the benefits of the Industrial Promotion Law, enacted in 1970, by entering into a new contract with the government. The new contract may have up to a ten-year duration, or as many years as are pending for completion of the old contract if more than ten.\textsuperscript{208}

Lastly, within Area No. 5, two particular measures should be noted. Under a new law, Panamanian flag vessels are required to produce a sailing permit showing clearance from taxes and fees. The permit is to be issued by the Consular and Vessels Department. The law entered into effect on December 9, 1976.\textsuperscript{209} Effective February 15, 1977, individuals and legal entities are enrolled in a newly-created Single Taxpayers' Registry. Individuals will be assigned their same identification card number. Legal entities will be assigned the same number received upon their recording in the Public Registry, Mercantile Persons Section.\textsuperscript{210}

\section*{PARAGUAY}

Area No. 1 offers some interesting developments. A new system for the taxation of profits from cattle-raising and beef processing applies from January 31, 1977. Implementing the new rules, the Income Tax Bureau has required them to pay 300 guaranies per head intended for slaughtering, as advance payment of the income tax payable pursuant to their tax returns. Processors of beef for domestic consumption are now subject to income tax pursuant to the general Income Tax Law. Enterprises processing and refrigerating beef for exportation shall be subject to income tax pursuant to the General Income Tax Law. They shall pay five percent of the FOB value upon exportation of their output, and shall be exempt from certain taxes listed in the statute. The five percent tax is creditable against the income tax payable pursuant to their tax returns. Legal entities or individuals engaged in slaughtering cattle are now required to carry books of account and file tax returns accompanied by financial statements. Provided that such imports are not produced locally, exporters shall be exempt from the following taxes and duties: stamp tax on certain transactions; export duties; consular fees and import duties on equipment, parts and fittings; motor vehicles and materials for or related to cattle-raising. The transfer tax payable by cattlemen has been based on the average price in Asuncion for cleaned meat, which is eighty-five guaranies. The Executive Branch has been authorized to increase or decrease such tax whenever the cost-of-living index changes by at least ten percent with respect to the preceding year.\textsuperscript{211}


\textsuperscript{208} Law 92 of December 22, 1976.

\textsuperscript{209} Law 63 of December 9, 1976.

\textsuperscript{210} Law 76 of December 22, 1976.

\textsuperscript{211} Law 622 of January 31, 1977, as implemented by Resolution G-10 of February 5, 1977, Income Tax Bureau, and Resolution 212, Ministry of the Treasury.
Construing the regulations under the law which created a five percent tax on corporate capital, the Tax Court has upheld a provision which makes taxable credit balance with foreign branches of a domestic bank.\textsuperscript{212}

Congress has enacted the tax system for the Municipality of Asuncion City to apply from January 1, 1977. Loans are subject to a two-per-thousand tax levied on the value of the transaction; banks and financial institutions are exempt from such tax. An admission tax is levied at a six to ten percent rate depending upon the category of the theatre as fixed by Municipal Ordinance.\textsuperscript{213}

Money lenders will pay income tax at a thirty percent rate rather than the present twenty-five percent rate, according to a recent decree, thus bringing such rate in line with the tax rates on other income.\textsuperscript{214} Rules for the allowance of deductions for bad debts have been passed by the Income Tax Council. A reserve for bad debts may be formed by adding an amount equivalent to the average of worthless debts of the immediately preceding three years. In order to prove that a debt has become worthless, taxpayers must produce a certificate of the General Property Registry showing that the debtor is legally inhibited from selling or mortgaging its property.\textsuperscript{215}

A decree setting forth new rules on exportation has been passed. The procedure for fixing the price of exports for export duty purposes has been revised; such price will be fixed periodically by the Treasury. The exportation of goods exempt from export duty has been restricted. Other changes relate to the stamp tax exemption applicable to exports by cooperatives.\textsuperscript{216}

The law governing the 1977-1978 sugar crop has granted total exemption from any duty or tax on the exportation of sugar, including those imposed by the customs tariff which became effective on January 1, 1974. The selling prices for exported sugar will be no less than those fixed by the Central Bank on the date of exportation.\textsuperscript{217}

Raw materials and supplies destined for domestic manufacturing will be subject to a single thirty-five percent ad valorem tax. Goods to be merely assembled or finished are not included.\textsuperscript{218}

Rural property is to be appraised on the basis of the values per hectare fixed by two decrees for each location within the various Departments and Zones into which the country is divided. In certain Departments of the Eastern Region, real property taxes are to be computed for 1978 on seventy-five percent of the official appraisal, for 1979 on ninety percent, and for 1980 (and presumably subsequent years) on one hundred percent thereof. The new values range, with two exceptions, from 4,320 guaranies per hec-

\textsuperscript{212} Decision 14 of November 2, 1976, Tax Court.
\textsuperscript{213} Law 607 of October 5, 1976.
\textsuperscript{214} Decree 29424 of March 2, 1977.
\textsuperscript{215} Resolution 11 of April 21, 1977.
\textsuperscript{216} Decree 30574 of April 25, 1977.
\textsuperscript{217} Decree 31272 of May 25, 1977.
\textsuperscript{218} Decree 33989 of October 3, 1977.
tare in San Bernardino and Caacupe in the Mountain Range Department, and in several localities of the Central Department, all in the Eastern Region, to about 220 guaraníes in some tracts located in the Western Region. The exceptions are Luque and San Lorenzo, in the Central Department, where the basic value is 10,800 guaraníes per hectare.\textsuperscript{219}

Pertaining to Area No. 2, exporters of foodstuffs containing sugar will receive a cash grant equivalent to the value of sugar contained therein. For the 1977 sugar crop, that value is 2.50 guaraníes on the basis of the price of sugar at 35.05 guaraníes per kilogram. A fund has been created for the stabilization and compensation of prices of exports of industries connected with sugar. This fund is to be charged with the grants established under a new decree.\textsuperscript{220}

According to the Tax Court, capital assets incorporated into an enterprise qualified under the Investment Promotion Law are exempt from sales tax. Exemption from taxes on capital goods are granted to eligible enterprises. In the case at bar, the tax authorities had regarded the incorporation of capital assets to such an enterprise as a purchase for personal use or consumption.\textsuperscript{221}

Finally, within the Social Security Systems Area, a social security agreement between Paraguay and Chile is under consideration. The agreement would apply to the following risks in Paraguay: illness, disability, old age, maternity, and death. In Chile it will apply to similar risks for public servants, private enterprise employees, workers, journalists, merchant marine workers, and municipal employees. Employees covered from each country would have the same benefits granted to nationals and the same obligations. Documents and petitions related to the rights contemplated in the agreement would be exempt from stamp tax and consular certifications. The Agreement would enter into effect the first day of the second month following the exchange of ratification instruments in Santiago, Chile.\textsuperscript{222}

Also, the complementary social security program, which entered into effect in 1974, allowed the inclusion of services rendered prior to the affiliation of a worker, provided that the application with the appropriate contribution was filed within three years from such affiliation. That deadline has been extended by six months. Services rendered prior to the affiliation to the system could be included in computing the benefits of the new program if a worker paid five percent of the salaries attributable to that period within the deadline.\textsuperscript{223}

\textbf{PERU}

Several revisions have been introduced in Area No. 1. Pursuant to new legislation, exporters of wool are required to pay estimated income tax in ac-

\textsuperscript{219} Decrees 33196 of August 22, 1977 and 33330 of August 24, 1977.
\textsuperscript{221} Resolution 10 of July 20, 1977.
\textsuperscript{222} Release, Ministry of Foreign Relations.
\textsuperscript{223} Decree-Law 22 of January 31, 1977.
cordance with the general Income Tax Law. The new statute has consolidated prevailing export duties on wool in a single three percent tax applied on the FOB value. This tax is to be treated as a deductible business expense for income tax purposes. The new law became effective on April 1, 1977.\textsuperscript{224} From March 1, 1977 and until December 31, 1977, sugar exports will be exempt from the fifteen percent export tax levied on traditional exports.\textsuperscript{225}

Exercising the power vested in it by the statute that ordered 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 four percent. The rate is two percent for companies engaged in farming and forestry activities. Detailed rules for computation of the adjusted value are set forth. The increase in value for 1977 is to be included in computing net worth tax of enterprises. Mining, oil, and public utility companies are not required to adjust the value of their assets. Pursuant to the present decree, the offsetting of net operating losses by the increase in value of the assets does not preclude a taxpayer's right to set off losses for income tax purposes, provided that the losses are recovered in future years and such recovery is capitalized.\textsuperscript{226}

The rates of the net worth tax payable by individuals starting with the calendar year 1977, have been revised. The private net worth tax payable on real property owned by individuals and non-business associations now ranges from 0.2% (0.6% under the old law) to two percent per annum on the value assessed by the owner.\textsuperscript{227}

In lieu of existing local and national taxes, unimproved urban parcels of land will be subject to a single national tax beginning January 1, 1978. The tax increases on each of the first six years are from 1.6% to six percent of the appraisal value. Thereafter it is increased by one hundred percent each year if the parcels of land remain the property of the same owner.\textsuperscript{228}

Following Decision 104 of the Cartagena Commission, which provides for a Minimum Outside Country Tariff, Peru has revised the duties of several products imported from third countries.\textsuperscript{229}

Reinvestments by agrarian cooperatives are subject to new rules. Amounts reinvested in the same enterprise or in other agrarian cooperatives may not exceed forty percent of the annual profits. Tax-free reinvestments in working capital may not be distributed.\textsuperscript{230}

The rate of the excise tax on light domestic cigarettes has been decreased from 72.5% to sixty-nine percent.\textsuperscript{231}

\textsuperscript{224} Decree-Law 21803 of March 1, 1977.
\textsuperscript{225} Decree-Law 21817 of March 15, 1977.
\textsuperscript{226} Supreme Decree 0025-77 of February 15, 1977.
\textsuperscript{227} Decree-Law 21783 of January 25, 1977.
\textsuperscript{228} Decree-Law 21980 of October 25, 1977.
\textsuperscript{229} Decree-Law 22007 of November 29, 1977.
\textsuperscript{230} Decree-Law 21816 of March 15, 1977.
\textsuperscript{231} Decree-Law 21810 of March 15, 1977.
Twenty-eight days after its enactment, an elaborate system for the taxation of income derived by oil companies contracting oil exploitation with PETROPERU (Government Owned Oil Enterprise) was repealed from its inception. The system embodied in the repealed statute provided for certain adjustments to the taxable income determined under the general income tax law. The tax rate was twenty-five percent during the first ten years of operations, thirty-five percent in the ten subsequent years and fifty percent for the balance of the duration of the contract. According to the repealing statute, such tax system was not in harmony with the oil policy of the Revolutionary Government.232

According to changes in the Single Tax on Salaries Law, certain contractors and home-owners are not subject to the 2.5% payroll tax payable by employers. The exemption applies to future works and to those under construction as of July 26, 1977. Private and public employers have been subject to a 2.5% tax on their payroll since January 1, 1973. The exemption implemented by the present decree-law will entitle qualified employers to a credit for the tax overpaid by them; no tax already collected will be refunded.233

Pursuant to new legislation and subject to the conditions set forth therein, the transfer of real property to charitable, educational, and sports organizations will be exempt from the tax on property transfers and from gift and estate taxes. The exemption applies where the real property is to be used directly by the exempt organization, and it is forfeited if the organization disposes of the asset by selling it to third parties or by distributing it to its members.234

The Tax Court upheld a taxpayer who claimed in his personal return net operating losses of two corporations controlled by him, upon their transformation into limited liability companies. These companies are treated in Peruvian tax law as partnerships. The Tax Court stated that the Income Tax Law recognized the right of legal entities and individuals to carryover losses, and saw no reason to deny such right where a corporation changed its legal form.235

Domestic and imported alcoholic beverages, wines, liquors and beer are subject to excise tax under a new law. The levy applies in addition to the tax payable by the alcohol used as a component, and in addition to the tax on sales and services. Domestic products are subject to rates ranging from five soles per litre for certain wines, to sixty soles for certain alcohol; beer is taxed thirteen soles per litre. Imported wines are taxed sixty soles per litre, while alcohol and whiskies are taxed 200 soles per litre; imported beer is taxed forty soles.236

Due to the current low international price of copper, medium-size copper mining companies have been excluded from the application of the tax on
domestic sales of goods priced according to international markets, and from
the application of the tax on traditional exports. Domestic sales of goods
priced according to international markets are subject to a fifteen percent
tax. Traditional exports are subject to a fifteen percent tax on their FOB
value. Both taxes are implemented with a special credit. Copper mining
companies may not claim this credit, since they are relieved from the related
taxes.237

A new law, additional regulations, and two implementing decrees have
been enacted with respect to workers’ industrial communities. The new law
requires manufacturing enterprises to issue securities in the name of the
workers who are members of the “community.” The “community” must ac-
quire such securities out of the fifteen percent of net profits which enter-
prises are to transfer to them according to the Industrial Promotion Law. As
under the old law, members of the community will have the right to par-
ticipate in the capital of the enterprise and in its management and will share
ten percent of its profits. Detailed rules are set forth regarding workers’
rights. They may transfer their new “labor shares” after holding them for six
years. “Labor bonds” are redeemable in five years. Detailed and com-
prehensive rules are embodied in regulations passed under the recently-
enacted law on workers’ industrial communities. Dividends from the “labor
shares” and interest from the “labor bonds” to be issued by the employer
are to be reported by the recipient worker as “second category” income (in-
come from investments). The workers’ share in the employer company’s
profits is to be reported as “fifth category” income (income from employ-
ment). The regulations deal with taxation of income derived by the indus-
trial community and with numerous procedural matters. Among the
various aspects covered by the regulations are the eligibility of workers to be
members of the industrial community, the procedure for issuance of the
“labor shares” and “labor bonds” by the employer company, and rules ap-
licable in the event of merger or consolidation of the employer company.
The regulations under the Workers’ “Industrial Community” Law have
been implemented by two new decrees. One decree provides rules on
issuance of “labor shares” by subregional multinational enterprises and by
foreign companies which have entered into contracts with the government
for the divestment of the foreign ownership; it declares that “labor shares”
constitute national investment. The other decree provides rules for com-
puting the percentage of profits to be shared with workers and with “in-
dustrial communities” by manufacturing enterprises also engaged in non-
manufacturing activities.238

In addition to existing benefits for exporters, the duty-free entry of raw
materials and intermediary products to be used in processing goods to be ex-
ported, has been allowed. The Customs Bureau has been charged with the
control and administration of such importation/exportation programs. In
addition to the tax rebates for the exportation of industrialized goods, ex-

238. Decree-Law 21789 of February 1, 1977, as implemented by Supreme Decrees 002-77-
IT/DS of April 27, 1977, 005-77-IT/DS and 006-77-IT/DS, both of May 26, 1977.
Porters may now import free from duties, the raw materials to be processed in manufacturing goods to be exported. Several conditions must be met by such raw materials, as well as by the importers. Marketing companies are not entitled to the benefits of the new decree.239

A Decree-Law authorizing the establishment of foreign banks has been passed. Such banks may receive local deposits as well as foreign. The income derived from transactions performed abroad with funds originating abroad will be exempt from tax; dividends attributable to exempt income are also exempt and free from the restrictions imposed by Decision 24 of the Cartagena Commission. Special exemptions from other taxes, such as net worth tax, registration fee, real property transfer tax, import duties, income tax on directors' salaries, sales and services tax, and single tax on salaries are also provided for. They apply for a twenty-year period. Managers of such banks shall be excluded from social security and labor law coverage. Transactions in foreign currency are excluded from all Peruvian legislation on foreign exchange, foreign investment, taxes, social security, labor law, accounting, etc. Executive personnel is not subject to income tax in Peru and may import duty-free household goods and one automobile. Special rules apply to the capitalization of the new banks.240

A new system of tax incentives for the tourist industry has been enacted. Eligible enterprises may be granted exemption for up to seventy-five percent of profits reinvested; all other taxpayers may invest in tourist enterprises up to fifty percent of their taxable income, tax free. The capitalization of reinvested profits is subject to a three percent tax. The reduction of the capital or liquidation of a tourist enterprise triggers the taxes waived under the new law. Other tax benefits include accelerated depreciation of fixed assets, reduction of net worth tax, exemption from stamp and transfer tax bearing on corporate organization and financing, and import duty reduction.241

Manufacturing enterprises will be allowed to reinvest in approved projects or to use as working capital net profits derived from 1973 through 1977 and to capitalize such amounts, free from income tax, as late as December 31, 1979.242

Tax-free reinvestment of profits by manufacturing companies is governed by new, more flexible rules. The reinvestment program would qualify if it is earmarked for the acquisition of new shares issued by other manufacturing companies, or for the acquisition of fixed assets leading to increased capacity, modernization, or expansion of the plant. Shares thus acquired may not be transferred until three years later, and the fixed assets thus acquired must be held for at least five years. Reinvestment projects are subject to approval by the General Bureau of Industries. The maximum percentages

of net profits which may be reinvested tax-free are 62.05, 54.75 and 47.45% if invested in First, Second or Third Priority industries, respectively.\(^{243}\)

As an inflation-generated measure, the Income Tax Bureau has released the amounts which individuals may claim as personal exemptions, and which are based on the "minimum vital salary" for Lima Province. Such salary was fixed at 5,400 soles per month, effective August 2, 1977. The exemptions for the taxable year 1977 are as follows: personal exemption, S/113,400; special deduction for income from employment, S/113,400; spouse, S/64,800; each child, S/48,600, and other dependents, S/24,300.\(^{244}\)

Pertaining to Area No. 5, Tax Administration, five articles of the Fiscal Code which deal with tax violations, and fines have been amended. Fines are described in terms of percentages of the prevailing minimum vital salary in the Province of Lima. The amendments became effective on December 1, 1977. Under these provisions, violators may be subject to fine, or to surcharges for delayed payment. Voluntary compliance with the law by a delinquent taxpayer results in a fifty percent reduction of the applicable penalty.\(^{245}\)

Area No. 6 offers several special situations. Individuals and legal entities resident in Peru may invest in multinational enterprises established in another Andean Group country as provided for in Decision No. 46 of the Cartagena Commission in the terms and conditions set forth in a new Decree. The investment is to be of interest to the Peruvian economy and is subject to the approval of the Ministry of the Economy and Finances. Such approval is contingent on proof of payment of any Peruvian taxes. Investments by foreign companies are treated as direct foreign investment, as this term is defined in Decision 24 of the Cartagena Commission. In order to obtain the permission, an investor must promise to bring into the country any distribution of profits made by the foreign multinational company, as well as its share of liquidating dividends upon dissolution of that company, or the proceeds from repatriation of the investment.\(^{246}\)

Peru has adjusted divestment rules so as to conform to Decision 24 of the Cartagena Commission as recently amended. Certain foreign-owned enterprises, if they do not wish to participate in duty-free regional sectorial programs, may rescind the contract with the government for divestment of foreign ownership. Decision 24 of the Cartagena Commission, provides that the time limit to divest foreign ownership is to be computed from January 1, 1974. Likewise, manufacturing enterprises, whether or not they wished to participate in sectorial programs, had been required to enter into divestment contracts from January 1, 1971. Under the new rules, the divestment contract is to be executed only by those companies which wish to participate in

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\(^{243}\) Supreme Decree 013-77-IT/DS of August 18, 1977.

\(^{244}\) Release of August 11, 1977.

\(^{245}\) Decree-Law 21936 of September 20, 1977.

\(^{246}\) Supreme Decree 182-76-EF of December 2, 1976.
sectorial programs, or which were established on or after January 1, 1974, or which may be established in the future.247

The Peruvian Government has revamped foreign exchange controls. A single foreign exchange market has been created. Resident individuals and legal entities may be authorized to hold foreign currency in bank accounts within or without Peru. Foreign currency held abroad by resident persons may be brought into the country free of taxes and penalties. The new system supersedes the “foreign exchange certificates” and removes the restrictions and penalties imposed on foreign currency holdings. The Bank of Reserves of Peru will administer the new system. In discharge of this power, it has issued resolutions dealing with foreign exchange transactions. All of them are to be handled through the country’s banking network.248

Peru has approved Decisions No. 103 and No. 109 of the Cartagena Commission whereby important changes have been introduced in Decision 24 of said Commission. Under the changes, foreign investors are allowed to remit profits equivalent of up to twenty percent of the invested capital; remittal of a higher percentage may be authorized by the host country. Also, the percentage of profits which may be entitled to reinvestment privileges has been raised from five percent to seven percent. Other rules tend to vest member countries with powers reserved to the Commission under Decision 24, as originally passed.249

URUGUAY

Referring to the Tax Policy Area, taxes on fuel which were due to expire by December 31, 1976 have been extended until January 18, 1977. Beginning January 19, 1977 such taxes have been replaced by taxes computed as a percentage of the selling price of various fuels derived from petroleum. The Executive Branch has been authorized to reduce the rate of the taxes imposed by the present law.250

In order to protect domestic industry against foreign competition, goods declared to be in competition with similar domestic goods shall be subject to a sixty-five percent import duty surcharge, effective October 26, 1977.251

The import duty exemption granted to fishing enterprises for boats and equipment used by them has been extended. The five-year statutory limit is to run anew from October 26, 1976. Exemptions which had been granted by that date are not affected. The ten-year exemption from income and net worth taxes, which also started to run on October 28, 1971, has not been affected by the present decree.252

A new single import tax has been established in lieu of all existing customs duties and surcharges. The tax will enter into effect on January 1, 1978. The Executive Branch has been authorized to increase the statutory rate up to six times or to reduce it to zero. Exemptions from existing import duties and surcharges are to terminate December 31, 1977. The Executive Branch has fixed the rates applicable to each item listed in the Tariff. Many items are subject to seventy-five percent ad valorem duty and many others to one hundred percent. The rate for many raw materials has been increased by three times, and for chemical and processed goods, by four times. Detailed regulations have been passed. They define the "value of the goods at customs," on which the tax is levied, as the normal price of the goods fixed in a sale between a buyer and a seller unrelated to each other, and entered into under free competitive circumstances. Other terms defined in the regulations are "normal price," "free competitive circumstances," "related parties," and "goods." The regulations list the expenses which may be added to the cost of the goods, prescribe rules for converting values in foreign currency, describe the procedure for collection of the tax, and set forth guidelines for appraising the value attributable to patents and trademarks. The new single import tax was to have entered into effect on July 1, 1977, but pursuant to an amendment it shall be effective January 1, 1978.253

Meat-packing companies authorized to export their output are subject to a special tax on their excess profits attributable to the fiscal year October 1, 1975 through September 30, 1976. The tax applies at a twenty-five percent rate on profits in excess of twelve percent of invested capital and progresses to a sixty-five percent rate on profits in excess of forty percent of invested capital. For purposes of this tax, profits are determined by applying income tax rules except that the deductions for reinvestments and for export profits are not allowed, and a deduction for up to thirty percent of the fixed assets and a deduction for the amount of the income tax are allowed. The new tax is not deductible in computing taxable income.254

Reversing the position taken by it earlier, the Executive Branch has decreed that bank acceptances are subject to the single tax on financial activities. The single tax on banking activities and the additional tax on banking activities have each been reduced to .50 per thousand per month, when they are applied to loans made in foreign currency to nonresident persons.255

The seven percent minimum surcharge on all imports has been superseded by a new ten percent minimum surcharge. The new surcharge does not apply to imports expressly exempt, such as goods imported in bond and precious metals, or those exempted by regulations under the Industrial Promotion Law. The new surcharge has applied to importation applications filed on or after March 8, 1977. Where imports are subject to surcharges


higher than ten percent, such higher surcharge shall prevail. In the event a surcharge exemption is granted, it will apply only to the part of the surcharge in excess of ten percent.\textsuperscript{256}

As an inflation-generated measure, the Executive Branch has established the coefficients or factors to be used in revaluing fixed assets. The maximum and minimum coefficients thus established will apply to fiscal years begun on or after January 1, 1976. The minimum and maximum coefficients for assets acquired in 1956 or preceding years are 2,234.4 and 2,731.0, respectively. If real property is subject to a lease, the coefficients are reduced by fifty percent.\textsuperscript{257}

The values applicable in computing the tax on imputed minimum income from farmland for the period October 1, 1975 through September 30, 1975 have been fixed. The average basic production per hectare is 38.42 new pesos. The brackets of imputed taxable income range from 21,500 new pesos taxed at twenty-eight percent rate to over 172,000 new pesos taxed at fifty-six percent rate.\textsuperscript{258}

Taxpayers subject to the tax on income from commercial and industrial activities are allowed to deduct from gross income fifteen percent of the value of inventory at the beginning of the fiscal year. The deduction may not exceed ten percent of the value of inventory at the close of the fiscal year. The deduction applies only for fiscal years commenced during the calendar year 1976. The amount so deducted must be capitalized. Several limits are set forth in the new statute. The portion of the revaluation exceeding such limits may not be carried over to any other fiscal year.\textsuperscript{259}

Under Area No. 4, social security and other contributions by rural workers, by their employers, and by self-employed farmers have been revised, starting January 1, 1977. Rural workers' contributions have been raised by twenty-seven percent over the amounts paid as of December 31, 1976. The employer contribution is to be computed according to a prescribed formula. The formula is based on the imputed profitability of the land. The insurance premium payable by rural employers to cover workers' compensation has been fixed at twenty percent of the employer contribution. Self-employed farmers are subject to a single social security contribution equivalent to 1.20% of the imputed profitability of the land.\textsuperscript{260}

Beginning January 1, 1977, the employer contribution to the Family Subsidy Fund has been reduced to eight percent of payroll. The portion of the new rate to be received by the family allowance fund and the family subsidy fund are 4.5% and 3.5% respectively.\textsuperscript{261}

\begin{itemize}
  \item \textsuperscript{256} Decree 10 of March 2, 1977, as amended by Decree 201 of April 13, 1977, and implemented by Resolution 816 of March 10, 1977, Central Bank.
  \item \textsuperscript{257} Decree 45 of January 26, 1977.
  \item \textsuperscript{258} Decree 84 of February 10, 1977.
  \item \textsuperscript{259} Decree 199 of April 13, 1977.
  \item \textsuperscript{260} Decrees 109 and 110, both of February 23, 1977.
  \item \textsuperscript{261} Decree 761 of November 10, 1976.
\end{itemize}
The Executive Branch has decreed that special bonuses of a non-permanent nature paid to workers at the employer's discretion shall not be subject to social security contributions nor to workmen's compensation insurance premium. The exemption includes the employer as well as the employee contribution to the Social Security system, and the two percent stamp levy collected by the Social Security Bank.²⁶²

According to the Ministry of Labor and Social Security, the following items are includable in determining the base of social security contributions: bonuses, housing, meals furnished regularly, and education and clothing expenditures for dependents. The following items are not includable: additional year-end bonus, dues in medical associations, certain subsidies, and uniforms. Reimbursed traveling expenses are not includable either. Traveling expenses must be subject to strict accounting to the employer in order to be excluded from taxable wages. Subsidies in cash are excluded if they are paid by reason of birth, wedding, death, or payment of life insurance premiums.²⁶³

Finally, it is to be noted under Area No. 6, that the imputed income from farmland used in cattle-raising may be paid to the Treasury with certificates issued by the Bank of Uruguay for the purchase of the cattle by the Bank. The present decree also authorizes the use of such certificates for payment of social security contributions and municipal taxes.²⁶⁴

Exercising the authority granted it by law, the Executive Branch has established the payment of estimated tax by taxpayers liable for the tax on income from industrial and commercial activities, and from financial activities, for the added-value tax, and for the net worth tax. The Executive Branch has also revised regulations under the unified tax payable by small merchants. Corporations which have issued bearer shares and branches of foreign companies are required to pay a monthly estimated net worth tax equivalent to eight percent of the tax paid for the prior year. Similar payments are required from taxpayers of income tax on industrial and commercial activities and financial activities.²⁶⁵

VENEZUELA

Several measures were taken under the Fiscal Policy Area. The regulations governing the payment of estimated tax by legal entities engaged in mining, oil, and related activities have been revised by increasing from eighty percent to ninety-six percent of the estimated tax liability, the amount payable in the current taxable year. Pursuant to the new decree, 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. The returns thus filed may not be amended, except to increase the tax payable. This rule notwithstanding, the Ministry of the Treasury may authorize filing

²⁶² Decree 797 of December 8, 1976.
²⁶³ Resolution of February 1, 1977.
²⁶⁵ Decrees 73, 72 and 70, all of February 2, 1977.
of amended returns for a lesser tax liability in the event of special circumstances beyond the taxpayer's control.\textsuperscript{266}

More liberal terms are now applied to the exemption from income tax granted to interest from financing school buildings. The new decree does not make the exemption contingent on the value of the property. However, it requires that the amount of the loan be not less than fifty percent of the appraisal value.\textsuperscript{267}

The Tax Bureau has held that seniority and severance indemnities deposited in an employee account for delivery upon termination of the employment relationship, as required by labor law, are not to be treated as actual payments, and therefore are not taxable upon such deposit. The ruling points out that the Labor Law requires employers to pay annually the seniority indemnity and the severance subsidy into a special account, in the name of each employee. An employee has vested rights in such amounts. On the other hand, the Income Tax Law regards payments to an account as actual payment of income, unless there is proof to the contrary. In the Bureau's view, the fact that the amounts are to be delivered at the end of the employment relationship constitutes the proof referred to in article 1. and therefore, such deposit is not taxable.\textsuperscript{268}

The contribution of appreciated property to a corporation in exchange for stock of such corporation has been held to be a recognizable gain subject to tax upon such transfer, rather than upon the sale of the shares at a later date. The court construed a provision of the Income Tax Regulations whereby appreciated value is recognized when a sale or a contribution to the capital of a new company occurs and, therefore, the income is then available to the transferor. The taxpayer had argued that the income was not available until the shares were sold because only then could the amount of gain be established; in the meantime, he had merely changed the nature of his property. The court dismissed the argument by pointing out that the later sale of the shares would be a new transaction to be taxed separately.\textsuperscript{269}

A recently reported decision of the Income Tax Court has disallowed the deduction of the cost of scholarships for the training of employees outside Venezuela. The court admitted that the expense was normal and necessary, but as it was not incurred within Venezuela and under the territoriality principle upon which the tax system is based, could not be allowed. Where an employer creates a scholarship for training of selected employees, whether the funds are delivered to the candidate or to the educational institution, what controls is the place where the teaching is performed. As the teaching is done abroad, the cost of it is incurred abroad.\textsuperscript{270}

To close this tax review for 1977, three measures are to be noted under the area of Special Situations. Venezuela has implemented a new Chapter

\textsuperscript{266} Decree 1957 of December 14, 1976, superseding Decree 1468 of March 16, 1976.
\textsuperscript{267} Decree 2034 of February 15, 1976.
\textsuperscript{268} Revenue Ruling, reported June, 1976.
\textsuperscript{269} Decision 737 of August 12, 1976, Income Tax Court.
\textsuperscript{270} Decision of September 15, 1974, Income Tax Court.
III of the Rules on Foreign Investments approved by Decision 24 of the Cartagena Commission. The following economic activities have been reserved for companies regarded as domestic under Decision 24: public services, broadcasting, newspapers, trading in goods, and professional services in fields regulated by Venezuelan law. The reserve of trading in goods will be waived at the discretion of the Superintendency for Foreign Investments if any of the detailed situations described by the new statute are met. No new foreign investment in the reserved sectors will be permitted, and divestment of up to eighty percent of equity in existing enterprises so engaged must be accomplished no later than December 30, 1977. Among the factors to be taken into consideration for the waiver referred to above are the capital nature of the goods marketed, the connection of the goods with technical services rendered within the country, and the commitment on or before December 30, 1977 to start manufacturing similar goods no later than February 9, 1980.  

In order to expedite the processing of applications for the registration of foreign investments for the approval of contracts transforming foreign capital companies into domestic capital companies, and for the authorization of contracts for the transfer of technology, the Advisory Committee of the Superintendency for Foreign Investment has been suspended and a Special Committee appointed in its stead. The Superintendent must submit such applications to the new Committee. Processing of applications has been impaired by a fire in the Superintendency offices.

Venezuela has approved Decision No. 103 of the Cartagena Commission whereby important changes have been introduced in Decision 24 of said Commission. Under the changes, foreign investors are allowed to remit profits equivalent to up to twenty percent of the invested capital. Remittal of a higher percentage may be authorized by the host country. Also the percentage of profits which may be entitled to reinvestment privileges has been raised from five percent to seven percent. Other rules tend to vest member countries with powers reserved to the Commission under Decision 24, as originally passed. Other changes relate to the inclusion of rules on subregional investments and to the computation from January 1, 1974 of the time limit to divest foreign ownership of Venezuelan companies.