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M. M. Marti

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MARY MERCEDES MARTI*

EDITOR’S NOTE: The Taxation Report for this issue consists of a LATIN AMERICAN TAX LAW REVIEW — SECOND HALF, 1974, prepared by Ms. Marti.

This study reviews the tax developments in eighteen countries of Latin America during the second half of 1974, with emphasis on those changes which affect North American investors and corporations. Pertinent legislation and rulings, as well as important judicial decisions are highlighted so as to give maximum coverage in each of the areas listed below.

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

*Director and President of Inter-American Tax Research, Ltd., New York, N.Y.; Associate Tax Counsel for Gulf + Western Industries, Inc., New York, N. Y.; L.L.B., National University of La Plata, Argentina, L.L.M., Harvard University, J.D., New York University. Dr. Marti has also been associated with Coopers & Lybrand and with W. R. Grace & Co. She is a member of the Argentine and New York State Bars and has acted as Lecturer and Coordinator at American Management Association, Council of the Americas and World Trade Institute Seminars.

The developments described in this article have been compiled with the assistance of Miss Carmela Savoca, A.A.S., BMC College, New York.
Concerning the Tax Policy Area, regulations implementing the income tax system which entered into effect on January 1, 1974 have been passed. Technical assistance fees are limited to 3% of sales or 5% of the investment made by the licensee; administrative advisory fees are limited to 12.50% of annual book profits if fully distributed, ranging to 2.5% if no distribution is made. Taxpayers are allowed to deduct third-party taxes if such payment is connected with the generation of taxable income. However, the third party is required to gross up its income by the amount of tax relieved from, except in the case of foreign loans for manufacturing and extractive industries.

The provisions affecting nonresidents disallow expenses incurred abroad except where authorized by the Tax Bureau, limit fees as described above, impose a 45% withholding or net fee income amounts paid abroad as compensation for services rendered within Argentina, and treat as taxable income amounts paid abroad as compensation for services rendered within the country.¹

New taxes on company capital and individuals' net worth have also been implemented by regulations. The tax on capital applies to the net capital shown in balance sheets for years closed throughout 1974 and 1975. Nonresident individuals are subject to tax at a 1.75% rate on their assets located within Argentina as of December 31 of each year. The 50% reduction allowed by the law in computing value of rural property for either tax is restricted by the regulations to property not used in manufacturing activities, mining, commercial activities or forestry. The regulations contain one title on the tax on company capital, another on the tax on net worth, and a third on rules common to both taxes.²

An important decision of the Tax Court, recently published, deals with the concept of withholding in the case of withholding taxes levied on nonresident taxpayers. According to the Court, no withholding applies if the income is not paid or credited and the beneficiary has its free disposition. Thus, concluded the Court in a case involving 1964 through 1968 taxable years, where a borrower was insolvent and could not pay interest on a foreign loan, so that a portion thereof could be withheld, the tax did not accrue, although the borrower's accounting entries showed a reserve for such interest and the interest expense was claimed as a deduction under the accrual method of accounting followed by the borrower. From January 1, 1972 such deduction is disallowed unless the income is actual-
ly paid to the nonresident recipient. A dissenting opinion regarded the tax as accrued on the ground that where the tax withholding is final the payor is not acting as a normal withholding agent but as a substitute taxpayer and the payment, technically, is not a typical withholding. Thus, whether or not monies were available is irrelevant.³

Exercising the authority granted it by the Gains Tax Law, the Executive Branch has set forth the conditions to be met in order to qualify for the deduction from taxable income of a percentage (80% for category I buildings and 50% for category II buildings) of the amounts invested in building low-cost homes. The benefit applies to investments made on or after January 1, 1974, provided that the building is commenced no later than May 31, 1975. Investments made in buildings started prior to January 1, 1974 may be governed by the new regulations or by those in force prior to the enactment of the Gains Tax Law, at the election of the taxpayer.⁴

Sales tax exemptions under sectorial promotion programs will be granted in accordance with regulations issued by the Executive Branch under the new value-added tax law. Taxpayers must segregate eligible sales from others not entitled to sales tax exemption or deferral. Exemptions being enjoyed under promotional programs by May 25, 1973 are to be maintained, whereas new programs are subject to the regulations passed under the new value-added tax. Through a separate decree, the Executive Branch has revised the list of exempt items.⁵

Consistent with an earlier decision on tax refunds, the Supreme Court denied the refund of a duty surcharge, although such refund had been allowed by the Supreme Court with respect to another period. In denying the refund of a 5% duty surcharge on automobile equipment paid in 1969 and 1970 by an importer entitled to exemption therefrom under the automobile industry promotion law, the Court stated that the tax could have been passed on to the consumer and the plaintiff did not submit evidence to the contrary. The plaintiff had been granted refund for the surcharge paid in earlier periods, by the Supreme Court comprised of Justices different than the present ones. The new Court dismissed such precedent on the ground that the controlling factor in the case was the economic burden of the levy, as held in its decision of October 18, 1973 in re Mellor Goodwin. Thus, in order to obtain a refund, it is a condition precedent that the taxpayer prove not only the fact of being legally liable for the levy, but also the unjust enrichment of the Treasury, the corresponding impoverishment of the taxpayer and the connection between the
two. The plaintiff did not show that the surcharge had not been included in the selling prices.\textsuperscript{6}

A decree passed earlier in 1974, which set forth rules for crediting against the income tax those amounts paid on the imputed income from rural property fit for agricultural exploitation has been suspended. In its stead, payment on account of the levy to be established by a statute being drafted is to be made as provided for in a new decree. On account of the income tax payable for 1974, land owners must pay a tax equivalent to 30\% of the values of land set forth in the new decree for land located in Jujuy, La Rioja, Mendoza, San Juan and Santiago del Estero, and of the official appraisal for land located in the other provinces.\textsuperscript{7}

Effective retroactively to November 1, 1974, licensees of radio broadcasting stations have been subject to business license tax at the rate of 10\% of gross billings.\textsuperscript{8}

Main features in Area No. 2 are the promotion of the Northwest and the Northeast regions. Pursuant to the regional promotion system and guidelines set forth by regulations under the Industrial Promotion Law, the Executive Branch has established a special regional promotion system for the Provinces of Catamarca, La Rioja and San Luis. Industrial plants engaged in processing raw materials found in each of the provinces as listed in the new decree, will enjoy tax benefits for ten years. Total exemption from income and sales tax and from the tax on net worth are granted for the first eight years from the startup of operations. The exemption is 95\% and 90\% in the ninth and tenth years, respectively. Investors in approved projects may elect: 1) to defer payment of the income tax payable for the year of the investment in an amount equivalent to up to 75\% of the tax due, until six years after the startup of operations, or 2) to deduct the amount invested from taxable income for the year of the investment.\textsuperscript{9} Also, pursuant to the regional promotion system and guidelines set forth by regulations under the Industrial Promotion Law, the Executive Branch has established a special regional promotion system for the Northeast. Industrial plants engaged in processing forestry and farm products, minerals, and certain chemicals, which are listed in the new decree, will enjoy tax benefits for ten years. Total exemption from income and sales tax and from the tax on net worth are granted for the first five years from the startup of operations. The exemptions are gradually reduced to 30\% by the tenth year. The system applies in the Provinces of Formosa, Chaco and Corrientes, and in certain Departments of Santa Fe Province.\textsuperscript{10}
Rules for substituting exemptions from the new taxes on gains and on corporate capital for those from the old income tax and substitute inheritance tax granted to manufacturing enterprises under industrial promotion laws have been issued. Tax credit certificates applicable against the repealed taxes will be applicable against the new gains, capital, and added-value taxes. Likewise, mining companies and international hotels will be entitled to exemption from the gains tax and the tax on company capital. Such exemption applies where the taxpayer would have been entitled to exemption from the repealed income and substitute inheritance taxes.11

Benefits granted under current or future laws to exporters of industrialized products competing in international projects have been restricted to domestic companies whose capital and technology are owned by nationals.

The benefits of the new law for suppliers of unused products or services do not apply where the rules governing the project call necessarily for such particular supplier or suppliers, or where the project is only open to the Argentine government.12

As one measure originated in inflationary pressures, all workers received a one-time bonus which is to be treated as salary for all legal purposes and is to be governed by the rules applicable to the “thirteenth” salary. The bonus is equivalent to the first installment of the “thirteenth” salary. The “thirteenth” salary is one twelfth of the annual remuneration received by employees, and is payable in two equal installments.13

Three developments are to be noted in the Fifth Area. Exercising the authority granted it by law, the Executive Branch has consolidated the text of the law governing tax administration and procedure, including amendments thereto up to 1973. The new text will be cited as “Law No. 11683, Text Ordained in 1974.”14 Pursuant to an amendment to the tax procedural law, the statute of limitations on remedies against or on behalf of the Treasury, which would have run by January 1, 1975, has been extended by one year, thus amending Law No. 11683, text ordained in 1974. The extension does not apply to the assessment of fines.15 Guidelines for granting extensions by the Income Tax Bureau for payment of taxes have been released. No extension may be allowed for payment of the excess profits tax payable by nonresidents.16

In Area No. 6, new legislation applies to transfers of technology from abroad. Contracts must conform to the guidelines stated in the
statute in order to be registered. Failure to register the contract will bar
the remittance of payments thereunder. Payments made under contracts
between affiliated companies are treated as profits in which case they will
be subject to the ceilings and taxes applicable to profits from foreign
investments. In such cases, and provided it is deemed to be in the
country's interest, the value of the royalty may be treated as contribution
to the capital of the licensee.\textsuperscript{17}

Also in Area No. 6, the Argentine Government has approved the
recommendations of the Mixed Paraguayan/Argentinian Commission im-
plementing the Agreement on Investment and Industrial Development
between Paraguay and Argentina. Such recommendations relate to trade,
free zones, technical cooperation, transportation, tourism and investment
in complementary industries. The recommendations approved by Decree
No. 1388 are contained in the Minutes of the Fourth Meeting of the
Commission, held in Buenos Aires, Argentina, March 6 through 9, 1974.\textsuperscript{18}

\section*{BOLIVIA}

An important tax policy measure has been adopted by the Bolivian
Government. Considering that the current export prices of coffee are too
low to allow an attractive margin of profit over current production cost,
the 15\% export duty on net value has been repealed. In its stead, exporters
will pay a tax based on the export price of coffee, to be adjusted every
year on the basis of production costs. If such price does not exceed \$0.60
per pound, no tax applies. If the price exceeds \$0.60 per pound, the excess
is subject to a 20\% tax. The new tax is to apply until March 1975, at
which time the tax exempt base will be adjusted taking into consideration
the production costs to be established then by the Government.\textsuperscript{19}

Pursuant to the same rationale and to promote the mining of copper,
the royalty levied on exports of copper will be reduced for a three-year
period. The royalty is to be reduced by 100\% on copper minerals of 10\%
or less fineness. The reduction decreases to 5\% when fineness reaches
24\% and is eliminated for minerals having 25\% fineness.\textsuperscript{20}

The rules for computing total income by resident individuals who
invest in mining enterprises lacking accounting records have been revised.
Such rules, as now revised, govern up to and including the taxable year
1973. Beginning with the taxable year 1974, income from investment in
mining enterprises is governed by the current Income Tax Laws. Because
mining companies are subject to \textit{regalia} taxes paid upon exporting their
output, in lieu of income tax and export duties, their profits need not be
determined for tax purposes. However, owners and shareholders are sub-
ject to "total" income tax on their share of such profits, as shown in the
balance sheets. Tables of presumptive income of mining companies lacking
accounting records were issued in 1970 and are now revised by Supreme
Decree. The latter also provides that the taxes imposed on the value of
exported minerals and on the metal content of exports are deductible in
computing company profits.\(^{21}\)

Stamp tax is not applicable to documents, company capital increases,
and issues of shares stemming out of the revaluation of fixed assets im-
posed by reason of the devaluation of the currency. This fiscal policy
measure was adopted on the ground that such acts do not constitute, from
a legal point of view, taxable events for stamp tax purposes.\(^{22}\)

Under Area No. 2, the General Forestry Law of Bolivia was enacted
effective August 13, 1974. Pursuant, to its taxing provisions, enterprises
which process forestry products are subject to the tax on profits created
by a law of 1953. (That law has been repealed by the Income Tax Law
enacted in 1973). On the other hand, gains from the sale of forestry
products obtained from artificial forests are not regarded as taxable
income. Investments in new plantations or their improvements and financ-
ing thereof are exempt from all taxes. New machinery and equipment
for the installation of lumber plants and for reforestation will be exempt
from import duties, as well as seeds, adhesives and pesticides.\(^{23}\)

In the Social Security Area, two new retirement benefits have been
created: 1) a complementary pension plan for workers in manufacturing
enterprises, granting them disability, old age and death protection and
financed by an employer contribution of 3% of payroll and an employee
contribution of 4% of salary; 2) an improved voluntary retirement pro-
gram. Employers have been allowed to use in their business the provisions
for funds earmarked for compliance with compulsory social benefits for
workers. Contributions to the new complementary retirement plan have
been due from June 1974, while the benefits will be granted beginning
July, 1975.\(^{24}\)

In an attempt to simplify and improve payment of social security
contributions, several provisions of the Social Security Code have been
amended, including stiffer penalties for late payment. Employers who fail
to pay contributions within 30 days after they are due will be liable for
interest at 12% per annum plus a fine of up to 36% of the contributions
overdue.\(^{25}\)
Several developments connected with Bolivia’s membership in the Andean Pact stand out in Area No. 6.

Thus, implementing Andean Pact commitments, the Bolivian Government has designated the Central Bank as the national competent authority referred to in Decision 24 of the Cartagena Agreement Commission. Existing investments registered in the National Institute for Investments must be re-registered in the Central Bank. Furthermore, Bolivia has ratified three Decisions of the Cartagena Commission issued in accordance with Decision 24 of that Commission. They relate to multinational companies and to companies partially owned by the state.

Exercising the right granted in Art. 44 of the Uniform Rules on Foreign Investment approved by the Cartagena Commission, the Bolivian government has issued a decree authorizing the establishment of foreign banking and financial institutions. Art. 44 of the Rules provides that a signatory country may exclude certain industries from those reserved for domestic enterprises, under special circumstances. According to the new decree, such special circumstances consist of a great need of funds to be used in the intense development of productive activities within the country. It is expected that the establishment of foreign banking institutions will meet such need. Also, exercising the prerogative granted to countries signatory of the Andean Pact by the Rules on Foreign Investments, Bolivia has authorized foreign banks to continue receiving deposits from local sources. The authorization will be in effect until regulations under the Rules, currently being drafted, are passed. According to Art. 42 of the Rules, foreign banks were required to cease receiving local deposits no later than three years from the adoption of the Rules by the country where such banks operated. However, under a subsequent statute, new foreign commercial banks may operate in Bolivia only if they also establish investment banking institutions conducive to the country’s development.

BRAZIL

Many important Tax Policy developments took place in the latter part of 1974.

Taxation of investment income was overhauled. Investment incentives available to individuals were revised. The changes affect the percentages of income tax which can be deducted if the tax money is invested in certain stocks and debentures for at least two years, and tax rates applicable
to interest, dividends, original issue discounts and gains from monetary correction of principal. The statute supersedes the rules on tax credit for investment in common stocks, the exemption connected with investment in housing notes, the exclusion of funds used for purchasing shares of qualified tourist undertakings from gross income, the rules for deducting amounts invested in common stocks and debentures of publicly held corporations, from gross income, and several provisions of the Income Tax Law, contained in Art. 92 and 93 thereof. Beginning with the taxable year 1974, gains from monetary adjustment of fixed assets by legal entities are to be included in gross income and treated as surplus for purposes of the tax on accumulated earnings; the deduction for maintenance of working capital is to be computed pursuant to new rules. The same statute revised the rules on capitalization of profits provided in Decree-Law No. 1109 of June 26, 1970 and Decree-Law No. 1089 of March 2, 1970, and the provisions of the Income Tax Law on taxation of gains from monetary adjustment of fixed assets. Art. 500, 280, 290, 254, and on withholding of intercompany dividends, article 245 (c) thereof. Furthermore, intercompany dividends are no longer subject to withholding of the tax at the source, but must be included in gross income of the recipient legal entity, and nonresident recipients of royalties or interest paid by exporters of industrialized products will be no longer entitled to exemption from income tax.\textsuperscript{31}

Taxation of income of individuals was further revised by another important statute. Pursuant to the amendments, income tax withheld at the source on account of the tax payable by resident individuals will be monetarily adjusted according to coefficients fixed as of December 31 of the taxable year. Other amendments affect the exemption for dependents over sixty-five years of age who are now to be counted as two dependents, the inclusion in "Schedule C" of salaries drawn by owners of businesses, 6\% discounts for payment of tax in full upon filing returns, and the inclusion of bearer securities income. Schedule "C" includes earned income from the rendition of personal services. Under the old law, sole proprietors' and partners' salaries exceeding the limits for deductibility by the payor entity, were to be included under Schedule "F" as distributions of company profits.\textsuperscript{32} Other changes introduced by this same decree-law affect taxation of legal entities and foreign loans. The 5\% tax on distributed profits and dividends has been eliminated when the distributee is a legal entity domiciled within Brazil. Borrowers from foreign lenders, who undertake to pay taxfree interest, are now allowed to deduct the amount of the tax as an additional financial expense. The Executive
Branch has been authorized to reduce temporarily the rate of the tax on interest from foreign loans. It has also been authorized to encourage the rounding off of values expressed in cruzeiros in the tax laws. Pursuant to that statute the Central Bank has issued Resolution No. 305/74 reducing from 25% to 5% the amount of income tax to be withheld from interest, commissions, and discounts paid to nonresidents for loans that are registered with the Central Bank.

Congress has regulated commercial leasing and has set forth the tax treatment of income and expenses connected thereto. Rental installments are deductible by the lessee and depreciation allowances are deductible by the lessor. Upon exercising an option to buy leased goods, the cost to be computed by the buyer is the price paid for exercising the option. Special rules apply to leasing of foreign goods and between related companies. Contracts entered into with foreign entities must be registered in the Central Bank. Goods brought into the country to be rented out are treated as imports and are not entitled to enter the country under the in-bound system. The new law provides that the exportation of Brazilian-made goods for purposes of leasing them abroad qualifies for the tax incentives granted to exporters who sell their products abroad. Existing lease contracts may be amended so as to qualify under the law which became effective on September 13, 1974.31

Also in the Tax Policy Area, an important statute governing tax-free revaluation of assets in certain corporate consolidations and mergers has been passed, superseding the system currently in force. Consolidations, mergers and other company associations deemed to be in the national economic interest by virtue of the objectives pursued will be entitled to suspension of the income tax on the revaluation of fixed assets until the objectives are accomplished, at which time the suspension will be transformed into an exemption. The increase in value resulting from the revaluation must be capitalized tax-free. Liquidation of the company or the reduction of its capital within the succeeding five years shall cause the amount capitalized to be subject to tax as operating and distributed profits. Losses from the sale of revalued assets shall be deductible from taxable income or charged against gains from future monetary adjustment of fixed assets. The value resulting from this revaluation shall not affect the amount of foreign capital registered with the Central Bank, if any. The new system will be in effect until December 31, 1979. Similarly to the old system, the tax benefit applies to the revaluation in excess of the limits of the monetary adjustment of fixed assets, up to their market value. The exemption extends to shares of capital received by partners
and shareholders by reason of the capital increase originated in the revaluation, so long as such shares are held by the distributee for at least five years. Depreciation allowances for revalued assets may be applied according to the new value monetarily adjusted.²⁴

Two decree-laws revising legislation on import duties have been passed. From December 2, 1974 through December 31, 1976 ad valorem duties on imports listed in one of the decrees, will apply at the rates fixed therein. Products subject to duties in accordance with LAFTA country agreements or with the General Agreement for Tariffs and Trade (GATT) are excluded. The tariff changes enacted earlier and which were to apply until December 31, 1975 have been extended until December 31, 1976. The other decree-law has eliminated the exemption granted to airplanes imported by farmers and fixes the duty at 50% ad-valorem.³⁵ Procedural rules and penalties related to import duty concessions have been issued. They cover duty exemptions or reductions, which are granted either to all imports, to certain eligible importers, or to certain eligible goods. The new rules became effective on December 27, 1974.³⁶

Pursuant to a new Decree-Law, small taxpayers may elect to pay income tax on imputed income equivalent to 3% of gross receipts. Only sole proprietorships, partnerships and limited liability companies whose gross receipts and registered capital do not exceed the limits set forth in the statute are eligible. Such taxpayers are relieved from the obligation to keep books of account, to adjust the monetary value of their fixed assets, and to compute the allowance for maintenance of working capital. The receipts comprising the bases for the tax are those derived between January 1 and December 31 of each year. Where such receipts exceed the statutory minimum after the election has been made, the taxpayer is allowed to apply the imputed income method by paying the 30% tax on 5% of its gross receipts, and he is required to start carrying accounting books from January 1 of the following years.³⁷

For purposes of computing income tax, the premium paid by financial institutions to other financial institutions for the transfer of letter-patents will be deductible by the payor and includable in gross income by the payee. The new law applies to transfers authorized by the Central Bank of Brazil. The National Monetary Council may authorize the payor to amortize the expense over a maximum of six years, and may authorize the payee to allocate the income in cases of deferred payment, to the year in which each installment is received.³⁸
The rates of the single tax on lubricants and gas combustibles have been revised. They are applied on the CIF value of lubricants and fuel derived from petroleum.\textsuperscript{39}

The Loan Tax Law has been amended with respect to appropriation of revenue from the tax. The Central Bank is charged with using the funds for regulating the capital market and operations of financial institutions.\textsuperscript{40}

In Area No. 2, various activities and regions have been aided by tax incentives. Up to 3,000 cruzeiros may be credited by individuals who finance their homes through the Housing Financial System. The credit is 10% of the payments attributable to the taxable year 1974. The deduction of 50% of the amounts attributable to monetary adjustment of the principal of Housing loans has been eliminated. The minimum credit is 240 cruzeiros. In computing the credit actual payments made for 1974 up to the date of filing the income tax return in 1975, may be included.\textsuperscript{41}

Sales of domestic machinery and equipment made by Brazilian enterprises in the local market will enjoy the tax incentives granted to exporters, in the conditions set forth by a new law. The benefits granted to such sales under earlier laws have been expanded and extended. Under the new statute, sales in connection with projects financed by foreign loans or by certain government programs are eligible for tax benefits, whether or not the projects will increase exports. No time limit for the application of the statute has been fixed.\textsuperscript{42}

Current tax concessions for legal entities engaged in farming have been replaced by a flat 6% tax rate on their profits. Distributions therefrom shall not be subject to the 5% distribution tax. Such legal entities are not entitled to fiscal investment incentives. Legal entities may elect to continue to be governed by the old law whereby exemption from the 30% normal corporate tax was granted subject to progressive reduction after certain years. Since the 5% distribution tax has been eliminated where the distributee is a domestic legal entity (Decree-Law No. 1351 of October 24, 1974),\textsuperscript{43} it would seem that the exemption referred to in the present decree-law is intended for distribution of farming profits to a foreign shareholder.

Up to and including the fiscal period 1984 (taxable year 1983), individuals who are registered as gold and precious stones prospectors pursuant to the Mining Code, may deduct from gross income up to 90% of their profits from the sale of their products to authorized enterprises.
Authorized enterprises which report their full inventory in the manner prescribed by the statute but no later than 120 days from December 10, 1974, will pay the normal tax on the increased value at the rate of 2% rather than 30%, provided that such value is capitalized for at least 5 years. Gold and precious stones prospecting with rudimentary tools is governed by Art. 70 through 78 of the Mining Code enacted by Decree-Law No. 227 of February 28, 1967.44

Three tax benefits due to expire by December 31, 1974 were extended. The exemption from import duties granted to steel producers has been extended until December 31, 1979, and its administration has been revised; the exemption from import duties granted for equipment for the development and expansion of motion picture studios has been extended until December 31, 1977; and the deadline for election to apply tax money in establishments located within Espirito Santo State has been extended to the fiscal period 1978 (taxable year 1977).45

Referring to Area No. 3, Brazilians continue to manage in an inflationary economy. It is well known that the cruzeiro values contained in the income tax law are adjusted every year in accordance with the cost-of-living index, and 1974 was no exception. Thus, three portarias dealing with updating of taxable income brackets of resident individuals and other cruzeiro values have been issued. Having established that the adjusting coefficient for 1975 is 1.30%, a new scale for taxation of individuals' income has been released. Up to 13,900 cruzeiros are exempt; the highest rate applies to taxable income in excess of 289,300 cruzeiros. The exemption for dependents has been fixed at 4,500 cruzeiros per pear. The values expressed in cruzeiros in the Income Tax Law, thus adjusted, and rounded off have been released.46

Implementing the latest amendments on computation of monetary adjustment of fixed assets and the allowance for maintenance of working capital, the Treasury has issued a Portaria which also supersedes old rules on accounting for foreign exchange losses.47

Finally, in Area No. 4, to the benefits covered by the social security law as last amended, the maternity allowance has been added. This benefit will be financed by an employer’s contribution equivalent to .30% of payroll; however, the employer’s contribution to the family subsidy program has been reduced to 4%. Maternity benefits are payable by the employer and deducted from any contribution payable thereafter to the Social Security Institute.48
CHILE

Several changes have been introduced under the Fiscal Policy Area.

A new Stamp Tax Law entered into effect on September 22, 1974. Contracts, including transferers of shares, are subject to a 1% tax. However, transfers of real estate, including transfers in corporate organizations, reorganizations and liquidations, are subject to an 8% tax.

The fixed rates contained in the new law have been increased by 117.8%, from January 1, 1975.

The new statute vests the President with the power to update every sixth month the fixed rates contained in the law in accordance with increases in the cost-of-living index.

Under Art. 61 of the Income Tax Law, as amended, the President may raise the 40% “additional” income tax on royalties and fees paid or credited to nonresidents, to 80%. The increase must be passed, in November of each year, will apply as of January 1 of the subsequent year, and will be valid for one year. Exercising such authority, the Executive Branch has increased the 40% tax rate on certain royalties and technical assistance fees derived by nonresidents. For one year beginning January 1, 1975, a 60% rate applies to such items if connected with printing, clothing, furniture, cosmetics and liquor or wine industries.

The rates applicable to the first sale of beer and other alcoholic beverages have been reduced, effective November 5, 1974, while the fixed tax on sales of benzine has been doubled, effective October 14, 1974. The latter had been adjusted upwards by 50% four months earlier under the power granted by law to the Executive Branch to increase the tax rate biannually by up to 100% of the cost-of-living index. The index increases between December 1973 and May 1974 was 112.96%.

Foreign loans are to be authorized by the Central Bank or by the Committee on Foreign Investments in order to qualify for the exemption granted to interest thereof by the Income Tax Law. Foreign financial institutions other than banks must be previously authorized by the Central Bank. This Decree-Law has replaced Art. 61 No. 1 of the Income Tax Law of 1964 which merely required the Regional Director of the Internal Revenue Service to verify that the loan met the conditions set forth in the law.
Pursuant to the approval of the accession of Venezuela to the Andean Pact, the import duty tariff concessions to Andean countries have been revised with regard to products originating in that country.53

Within Area No. 2 a most important measure was taken: enactment of a new law welcoming foreign investment. The investment may consist in foreign exchange, capital assets, raw materials, technology, or services. Authorizations to invest are to be reflected in contracts executed by the investor and the Foreign Investment Committee, and to be published in the Official Gazette. These contracts may be for ten to twenty years duration and their assignment to another foreign investor will not be treated as a repatriation of capital. Foreign investors are guaranteed non-descriminatory treatment and the right to remit profits abroad in the conditions to be specified in the respective contract. The repatriation of capital in excess of the value invested will be liable for income or gains tax on such excess. Provision is made for reducing the 40% rate of the "additional" tax levied on income items derived by nonresidents. Reinvestments of up to 10% of the original investment will be governed by the original contract. Reinvestments exceeding such percentage will require a new contract. Foreign investors may be granted on a case-by-case basis total or partial exemption from import duties, and the benefits of laws fostering specific activities. Investments currently in existence within the country must be registered with the Committee no later than July 13, 1975.

While in order to enjoy tariff-cutting within the Andean Pact countries foreign investors must comply with all Decisions of the Cartagena Commission, the new statute makes no mention whatsoever, of the 14% annual remittance ceiling imposed by the Uniform Rules on Foreign Investment issued by the Cartagena Commission, although Chile adopted them and declared them operative by Decree.

Existing investment may elect to be governed by the laws in force at the time of investment or may choose to be governed by the new statute, in which case the investment will be treated as new.54

Implementing Andean Pact commitments, the Chilean Government has designated the Committee for Foreign Investments as the national competent authority referred to in Decision 24 of the Cartagena Agreement Commission.55

With respect to Area No. 3, an inflation-generated measure has been taken. Chile has been so plagued by inflation, that a periodic adjustment
of salaries and of the "minimum vital salary," which is the unit used in applying escudo values contained in the tax and social security laws, was necessary. Beginning October 1, 1974 all wages, salaries and pensions have been increased by 24%, including the "minimum vital salary" fixed for each Province of the country, except for the Province of Santiago, where it is fixed at 20,000 escudos per month. Nevertheless, the minimum vital salary per month on which the tax on earned income is based, is fixed at 27,000 escudos. The automatic periodic adjustment of wages, salaries, pensions and minimum vital salaries has been established. Such adjustment is to be equivalent to 100% of the cost-of-living index for the respective preceding quarter. However, the Government is authorized to fix higher adjustments for certain sectors by recommendation of newly created labor advisory commissions. The new Decree-Law has ordered the Mixed Central Commission for Salaries to release a list of the "minimum vital salary" for each Province rather than for each Department, adjusted upwards by 24%. The automatic adjustment is to take effect on December 1, 1974, March 1, and June 1, September 1 and December 1, 1975. It shall be 100% of the cost-of-living index for September and October, 1974; November, December, 1974 and January 1975, February to April, 1975, May to July, 1975 and August to October, 1975, respectively.

Adjustments have been made in taxation of real property. By Decree, the Government fixed at 100% the adjustment of the appraisal of real estate in effect on January 1, 1974, for purposes of the real property tax. The new values apply from July 1, 1974. The same statute revised the values set forth in the Income Tax Law for computing imputed income from farmland and other realty, and for granting exemptions from the tax on capital gains.

In the Social Security Area, two changes are worth noting.

Employees of the private sector will be entitled to receive unemployment subsidies in accordance with a new law. No additional contribution is required from employers or employees. The subsidy is not regarded as income for any legal purpose whatsoever. In order to qualify for the subsidy, an employee who had been laid-off for reasons beyond his or her control must have contributed to the corresponding social security system at least fifty-two weeks within two years preceding the dismissal. The subsidy shall amount to 75% of the monthly average salary of the preceding six months. Nevertheless, it may not be less than 80% of two minimum vital salaries for the Santiago Department, nor exceed 90% of four of said monthly salaries.
All employers have been required to pay in September, 1974 a one-time 5,000-escudo bonus directly to each worker, and a 9,000-escudo contribution per worker to the social security fund to finance a 5,000-escudo bonus payable by the fund to each dependent of worker entitled to family subsidy. The bonus is not to be treated as income or remuneration for any legal purpose. Each employee may receive only one bonus. Therefore, when working for more than one employer, only the employer paying the larger remuneration is required to pay the bonus. Retired employees have also received the bonus payable by the respective social security fund.59

The Tax Administration Area features two developments. Several provisions of the Tax Code dealing with late payment of tax have been revised. Under the amendments, the amount of overdue taxes is to be adjusted in accordance with the cost-of-living index. The cost-of-living index to be applied is that prevailing between the second month preceding the deadline for payment and the second month preceding the actual payment.60

Freightforwarding is governed by a new law which replaced pertinent provisions of the Customs Code. Persons presently engaged in such activity may apply for a license no later than November 11, 1979 if they have been in the business at least eight years.61

COLOMBIA

In view of the public budget crisis triggered by domestic inflation and the drop in the international price of coffee, the Executive Branch has declared the state of economic emergency for forty-five days under the authority of Art. 122 of the Political Constitution.62 This declaration originated a sweeping tax reform, primarily of the income tax system.

In the new income tax system, as first enacted, the tax is comprised of a normal tax on profits, another on occasional gains, a tax on net worth, and a tax on certain income and gains remitted to nonresidents. The real innovation under the new scheme is that occasional gains are now taxable, and nonresident individuals will be subject to remittance tax, while the taxes on excess profits and the special tax for electrical and steel development, and the housing surcharge are no longer in force. Individuals resident in Colombia will pay the basic income tax at a progressive rate ranging from 10% to 56%; nonresident aliens, domestic corporations and
foreign legal entities will pay a fixed 40% rate; nonresident Colombian nationals are subject to a surcharge; domestic limited liability companies pay a 20% rate. The rate applicable to dividends by non-residents is 40%, but if the foreign country tax on dividends is higher than 30%, the Colombian tax rate is 20%. The new system provides for tax credits for promotion of certain activities, as well as for individuals' personal exemptions and charitable contributions. The remittance tax applies at the rate of 12% except for branch profits which are taxed at a 20% rate. The net worth (patrimony) tax is levied on net value (after deducting debts) of all potential income-producing assets possessed in Colombia on the last day of the taxable year. The rate ranges from six to twenty per thousand. A novel feature of the system is the imputation of a minimum income from net worth equivalent to 8% thereof. Occasional gains are taxed at a reduced effective rate in the case of individuals, but are included as ordinary income in the case of legal entities. Taxpayers may revalue their fixed assets and apply the updated value in computing capital gains, but not in computing basis for depreciation purposes.

The new tax system applies to “taxable year 1974”. Whether such application includes withholding taxes levied during 1974 but before the enactment of the new law, is anybody’s guess.

Within a month from its creation the income tax system was revised. Among the amendments and new matters are rules on the following deductions: employee social security contributions, employer contributions to pension funds, net operating losses, imputer expenses of foreign motion picture distributors and producers, imputed forestation expenses, and stamp taxes connected with income-producing transactions. Other amendments relate to tax credits for charitable contributions, for education and residential expenses, and for intercompany dividends. Implementing provisions of the Income Tax Law relating to a tax credit for dividends received from domestic corporations by legal entities, the Executive Branch has set forth the respective withholding rates at 4% for corporate shareholders and 2% for limited liability company shareholders. In a Circular issued days before the enactment of the income tax reform, the Tax Bureau has set forth rules for determining the basis of the remittance tax in various cases. The income tax paid is to be deducted. Payments exempt from income tax, such as gains from the sale of business are subject in full to remittance tax. In the case of foreign motion picture rentals, 50% of which is regarded as net income, the basis for remittance tax purposes is such net income after deducting the income tax paid thereon.
Exercising the authority granted it by law, the Executive Branch has issued regulations implementing the latest income tax law changes in force prior to the enactment of the new system. A credit for investments in certain bonds, in common stocks and in expansion of the taxpayer’s enterprise, is allowed against the excess profits tax.67

Instead of the old estate and gift taxes a new tax has been created by decree under emergency powers. The new tax is levied on the partition value of decedents’ estates and on the value of gifts. The rate is 20% except when recipients are sisters of decedent or donor in which case the rate is 10%. The spouse and children of decedent or donor are exempt. Dependents of workers who died in accidents are exempt, as well as inheritances and donations in favor of the state or non-profit organizations. Each heir, legatee or donee, is jointly liable with the estate or the donor, respectively for tax on his individual portion of the inheritance or donation. The new law applies to estates originating and gifts made on or after January 1, 1975.68

Also pursuant to the emergency powers vested in it by the Constitution, the Executive Branch has reformed the sales tax, primarily with respect to tax rates and exempt goods. The new rates are 35% for vehicles and luxury items, 15% for services and goods not listed under other rates, 10% for gasoline, and 6% for home appliances and certain precision instruments, among other products. Under the old law, the items now subject to 35% were subject to 25% and the lowest rate was 4%.69 The new rates have been reduced and heavy machinery for basic industries has been exempted from the sales tax by a subsequent decree. Thus, the 35% rate applicable to luxury items has been reduced to 15% for some of those items, and to 6% for others. Certain trucks previously taxed as all other vehicles at the 35% rate, will now be subject to a 15% rate. The amendments have applied from November 1, 1974.70

Income from exploitation of oil, gas and mineral deposits privately owned is to be reduced by the cost of exploration expenses and depletion allowances as provided for in a new law. Depletion based on a fixed percentage shall be 10% of the gross value of the product extracted, but may not exceed 35% of the taxpayer’s net income computed before deducting such depletion allowance.71

Two decrees levying royalties on the production of emeralds, gold and platinum became effective on June 28, 1974. The new taxes are: 1) 15% of the gross value of emeralds produced by privately-owned mines; 2) 2% per troy ounce of gold; and 3) 4% of the gross value of
platinum. Revenue from the new royalties is to be transferred to the municipality where the mines are located, and applied to works connected with education, health and development of agricultural, mining and forestry resources. The tax on gold and platinum is to be withheld from the price paid to producers by the Bank of Colombia.

Reversing dictum contained in a recent decision of the Council of State, the Council has held that where income tax is withheld at the source as single and final payment of the recipient’s tax liability, rate changes subsequent to such withholding, although effected within the same taxable year, do not affect payments prior to the change. On such grounds, a Circular of the Income Tax Bureau requiring retroactive application of the new rates to income already subject to withholding as final payment, has been declared null and void. Such circular had been temporarily suspended. In the other case, dealing with retroactive application of new rates to taxes withheld as final payment on income earned in the preceding year, the Council distinguished between income earned in a prior taxable year and income earned during the taxable year when the rates were changed but prior to the date of the law effecting the change. In that decision, the Council disallowed retroactivity to the preceding taxable year and declared to be null and void a ruling of the Income Tax Bureau applying the rate in force during the year when royalty income was remitted rather than that in force in the year when the royalty was earned.

Three developments connected with taxes on foreign trade bear reporting. The 26% ad valorem tax levied on coffee exports since 1967 is to be reduced by one point each year from January 1, 1975, up to the aggregate of four points by 1978, resulting in a 22% tax thereafter; the import duty levied at a 1 1/2% rate of the CIF value has been increased to 3 1/2% from November 18, 1974 and will be 5% from October 1, 1975; and substantial tariff reductions which entered into effect on July 4, 1974 have been passed to aid the aircraft, and motor vehicle industries.

New rules apply with respect to tax incentives for tourism and exports. Tourist development certificates are to be issued in accordance with new rules. Up to 15% of investments in tourist facilities may be granted in certificates. Such certificates are issued to the order of bearer, are freely transferable, do not accrue interest, are not exempt from taxes and their value is taxable income for the recipient. They may be used at face value for paying any national tax. Recipients of certificates are required
to sign a contract with the National Government, whereby they promise to fulfill the conditions underlying the granting of the certificates. One of such conditions ought to be the use of the premises as tourist facility or hotel for no less than twenty years.\textsuperscript{76}

With two exceptions, the amount of the tax credit certificate to which exporters are entitled has been reduced from 15\% to 5\% of the proceeds. The exceptions are exports of products listed in the new decree, on which the certificate shall amount to 1 per thousand, and exports of products listed by the regulations under the law for the promotion of farming and cattle-raising, on which the certificate shall be 7\% of the proceeds. The value of imported material incorporated in the exports is to be deducted from the proceeds. Products listed in the present decree include foodstuffs, live plants and animals, chemicals, metals, glass, pharmaceuticals, fertilizers, cosmetics, lumber, etc.\textsuperscript{77} Exporters of flowers to the United States will no longer receive tax credit certificates equivalent to 15\% of the FOB value of their exports. Such certificates will be issued to the Institute for Marketing of Farm Products which will transfer to the producers a portion of the value of the certificates, equivalent to 2.8\% of the proceeds from the exportation of flowers.\textsuperscript{78}

Other developments in Area No. 2 relate to free zones. A new industrial and commercial free zone has been established in the City of Santa Marta; national and foreign individuals and legal entities may engage in commercial and industrial activities within the zone, free of taxes and exchange controls. The regulations governing the operation of Cucuta Free Zone have been amended.\textsuperscript{79}

The most significant development in the Social Security Area is the creation of a 2\% payroll tax to be paid by all employers to the Colombian Institute for Family Welfare. It entered into effect on December 20, 1974. The levy is to be applied to the creation of nurseries for children of workers. In computing the salaries includible as base for the tax, salaries paid to nonresidents in foreign currency are to be included. These salaries are to be converted into Colombian currency by applying the official foreign exchange rates prevailing on the last day of the month to which the payment is attributable. The new tax is deductible for income tax purposes; so are donations to the Institute by individuals and legal entities.\textsuperscript{80}

Payment of the family subsidy by farmers is governed, since January 1, 1975, by special rules. Payments must be made through an Agrarian Fund. Receipts issued by the Fund are to be submitted to the tax author-
TAXATION

ities in order to claim a deduction for such payments. The new decree deals primarily with the obligations imposed on the Agrarian Funds.  

Under Area No. 5, administration of the sales tax is governed by new rules. While misrepresentation of facts conducive to lower tax liability is treated as tax evasion, errors due to wrong interpretation of statutory provisions and regulations are not so treated. Misinterpretations treated as tax evasion are subject to a fine equivalent to 100% of the tax evaded. Deficiencies assessed by reason of tax evasion may be reviewed pursuant to the procedural and taxpayers' remedies created by the new decree.

Procedural rules relating to the minimum imputed productivity of farmland have been passed. The new decree prescribes the method for determining the average productivity of land in the various areas of the country and taxpayers' remedies to exclude their land from application of such average. One of the remedies dealt with by the decree is complete relief from imputation of any income on the basis of actual loss due to some of the circumstances stated in the law — flooding, draught, storms, political revolution, strikes, etc.

The Council of State has declared null and void a Circular of the Superintendency of National Taxes which requires that taxes due by nonresident Colombian nationals be assessed by revenue agents. The Circular had already been suspended on the ground that it assumed that such taxpayers were required to file tax returns. A dissent opinion holds that Colombian nationals residing abroad and receiving Colombian source income are subject to tax at progressive rates and surcharges therein for absenteeism, as well, as to net worth tax, and therefore they must file an annual return.

Merchants are required to carry books of account as prescribed in a new decree which implements provisions of the Commercial Code and the Income Tax Law on the subject. Penalties imposed on violators have been revised effective June 7, 1974.

Two Special Situations which affect certain foreign investments are to be mentioned. Implementing the Rules on Foreign Investments adopted by Colombia, the Executive Branch has excluded certain investments from the Rules. They are those applied to the exploitation of farmland regarded as “new area,” as defined for purposes of the Agrarian Reform Law (virgin woods, virgin grazing land or low-productivity land). Also implementing the Rules on Foreign Investments and domestic law on repatriation of foreign capital, the Executive Branch has decreed that the
National Council for Economic Policy shall determine the system for repatriation of foreign capital invested in mining ventures contracted with governmental agencies.86

COSTA RICA

Regarding the Tax Policy Area, important changes in taxation of income of resident individuals have been enacted. Although the amounts of personal exemptions and the standard deduction of 15% of gross income but not over 15,000 colones, have not been modified as proposed, in lieu of all deductions, including personal exemptions for dependents, each individual may deduct up to 26,000 colones.

Another amendment provides that only individuals who have derived more than 26,000 colones in a given taxable year would be required to file tax returns.

The new rules apply to and from the taxable year which ran from October 1, 1973 to September 30, 1974.

The new law provides that if personal deductions exceed the standard deduction, those in excess may be claimed if itemized and up to a maximum of 15,000 colones. Thus the maximum amount deductible for personal deductions is 30,000 colones. Such ceiling does not include personal exemptions for dependents, insurance premiums, interest and other items listed in Art. 13 of the Income Tax Law.87

A bill had been introduced which would have increased the amount of the personal exemptions and raise the minimum amount of taxable income for being required to file returns.

Under the bill, the personal exemption for the taxpayer would have been upped from 5,000 colones to 10,000 colones; the exemption for spouse, from c/3,000 to c/5,000; the exemption for each child, from c/2,500 to c/3,000 and for other dependents, from c/1,500 each to c/2,000. Only individuals who have derived more than c/20,000 of gross income in a given taxable year would have been required to file tax returns. The proponents of the tax reform alleged that inflationary pressures have reduced the purchasing power of the workers earnings and that the values contained in the current law burden administration of the tax with a great number of small taxpayers.88

Effective December 14, 1974, foreign theatrical and television motion pictures have been subject to a new import duty surcharge. The surcharge
is 10% for theatrical films and television series, and 15% for other television films. Motion pictures to be used by movie houses and television series of scientific or educational nature are exempt from the surcharge. Regulations were to be issued within 90 days from the law's effective date.89

Beginning December 20, 1974, prizes awarded by the National Lottery have been subject to a new 5% tax. Prizes based on the last digits of the first-prize winning number are exempt. Regulations were to be issued within sixty days from the effective date of the law.90

Since September 3, 1974, motels and hotels for transients have been subject to a new gross receipts tax for the benefit of the Mixed Institute for Social Aid (IMAS). The rate is 30% of the amount charged for the use of each room. Establishments liable for the new tax are required to register with the Ministry of Justice and Police and to state the number of rooms comprising the premises. The tax is payable to the Central Bank the first week of each month. A registry for registration of establishments subject to the tax has been created by the Regulations.91

With respect to Area No. 3, the law regulating foreign exchange markets has been amended with respect to the powers of the National Council for Salaries. Under the amendment, the Council is authorized to adjust salaries for two-year periods. The first adjustment is to apply retroactively to September 1, 1974.92

Within the Social Security Systems Area, Congress has approved a Bill proposing amendments in the Social Welfare Institute Law. Pursuant to the amendments, delinquent managers' contributions to the Social Welfare Institute will be collected by summary proceedings in court.93

Finally, in Area No. 5, the law imposing a tax equivalent to 10% of the bill for restaurant and hotel services in lieu of gratuities has been amended. The amendment makes employers liable for the tax revenue which employees fail to receive for any reason. Under Art. 4 thereof as now amended, all the obligations and penalties applicable to payment of salary are applicable to payment of the tax monies.94

DOMINICAN REPUBLIC

Within the Tax Policy Area there are additional taxes on export profits. In addition to existing taxes on profits derived from exportation of beef and sugar new graduated taxes have been imposed depending
upon the FAS value of the shipment. But, regardless of the FAS value, the tax on sugar exports may not exceed .45 pesos per hundred weight. The new levies are described as excess profits taxes and are deductible for income tax purposes. The new tax on the excess profits from exports of beef ranges from 5% if the FOB price does not exceed .70 pesos per pound, to 25% on the amount exceeding .90 pesos per pound. The new tax on the excess profits from exports of sugar to either U.S. or world markets, is 10% on the excess over 7 pesos per hundred weight of raw sugar, and 20% on the excess over 8 pesos. Shipment of molasses at more than .22 pesos a gallon are taxed .01 pesos per gallon.95

Also within the fiscal policy area, the taxes imposed on domestic and imported liquor, wines and beers for financing the Olympic games have been superseded, and new taxes apply in their stead in addition to other taxes levied on alcoholic beverages. Domestic rum, bitters, gin and the like are taxed at 1.20 Dominican pesos per 12-700 c.c. bottle case; wines and cordials are taxed at .10 pesos per case, and beer at .08 pesos per litre. Imported liquor, wines, beers and ciders are taxed at the rate of from .53 pesos to .10 pesos per litre.96

Congress extended for one more year, beginning January 1, 1974, the 20% ad valorem tax on imported goods.97

Within Area No. 2 only one significant measure was taken regarding the extension of income tax exemption for rentals. Under a new law, rents derived from buildings the construction of which has been begun no later than December 31, 1974, will be exempt for up to fifteen years. The exemption applies to buildings completed in no longer than two years at a cost of 1,000.000 Dominican pesos or higher, as prescribed by an earlier law.98

Lastly, under the Special Situations Area, important additions have been made to the law for the protection of foreign manufacturers’ representatives. An additional indemnity is prescribed for representatives who have been employed more than five years by a foreign manufacturer. A conciliatory proceeding has been introduced. Until settlement is reached, a foreign manufacturer is barred from continuing to market goods within the country, either directly or through a new representative. Manufacturers’ representatives have been entitled to an indemnity equal to the gross earnings of the last five years, under Law No. 173 of April 6, 1966, as amended by Law No. 263 of December 31, 1971. Under the new amendments, they are entitled to an additional indemnity equal to one tenth of
the annual average of the last 5 years multiplied by the number of years of employment exceeding five. Other amendments require that legal entities representing foreign firms be 66% held by nationals, and be organized in the Dominican Republic.99

ECUADOR

The most significant occurrence within Area No. 1 is the increase of taxation of oil companies on two occasions. Oil companies have been subject to higher income taxes, since July 1, 1974. Taxable income determined under special rules was taxed at a 49.95% rate, which included additional income taxes. The basic income tax applied on such companies under the General Income Tax Law had been raised to 45%. Oil companies were again subject to higher income taxes from October 1, 1974. Taxable income determined under special rules is taxed at a 58.83% rate, which includes additional income taxes. The basic income tax applied on such companies under the General Income Tax Law has been raised to 53%. Extractive royalties have been raised to 16.67% of output exceeding 60,000 barrels per day.100

There are new rules on foreign loans. A new decree complementing the new tax on foreign loans has been passed. The tax is levied in lieu of all other taxes on interest, including the income tax. However, loans granted prior to March 25, 1974 are not affected and should remain subject to the old tax system, including the income tax on interest remitted abroad. Rules for the application of the tax in the event of extension of the original loan are also provided for. In the case of extension of the original loan prior to March 25, 1974, the tax applies on the difference between the new and the original terms. Extensions made after that day are subject only to the new tax from the date of the extension.101

The taxes on cigarettes have been amended. Revised rates for the excise tax levied on domestic cigarettes became effective on August 12, 1974. The new rates combine the 4% value-added tax and a graduated rate of the production tax, resulting in an effective rate which ranges from 25% to 20% of the selling price of each 20-cigarette pack. In order to develop tobacco growing, enterprises engaged in the cigarette business are required to invest annually in tobacco-growing an amount equal or higher than the amount spent the same year in advertising. Any difference below the latter is to be paid to the Treasury as additional production tax.
The Minister of Finance has been authorized to increase the percentages fixed by the new decree if selling prices are raised more than the increase in costs, or production costs decrease. Cigarette manufacturers are regarded as withholding agents.\textsuperscript{102}

With respect to the Industrial Promotions Area and exercising the authority granted it by law, the Executive Branch issued a decree implementing recent changes in the Industrial Promotion Law in connection with incentives for regional development. Detailed rules are provided for claiming the deduction from taxable income of investments in eligible enterprises. The deduction applies to contributions to capital, including those made by the founders or incorporators, but not to subsequent purchases of such contributions.\textsuperscript{103}

In an effort to promote domestic savings, financial companies have been authorized to issue debentures under the terms and conditions established in a new statute. They will be traded on the stock exchange and transfer there is tax free. Up to $7\frac{1}{2}\%$ of the interest from such debentures will be exempt from income tax. The debentures, known as "financial certificates" are redeemable in no less than 270 days but in no more than three years. They may be issued to the order of bearer and may be used as collateral.\textsuperscript{104}

Regulations setting forth procedural rules for claiming tax benefits to be claimed by and granted to fisheries have been passed. The regulations establish, among other things, guidelines for qualifying investments for purposes of the deduction from taxable income of fishing enterprises. In applying for import duty exemption of capital assets, the applicant must submit depreciation tables of fixed assets, salvage values and replacement values.\textsuperscript{105}

Within the Tax Administration Area, the liquidation of companies has been regulated. Amendments introduced in the Income Tax law will expedite liquidation of companies which enter into dissolution either voluntarily or by operation of law. Deadlines to be met by the tax authorities and company officers involved in carrying out liquidation proceedings are established.\textsuperscript{106}

Regarding the Special Situations Area, that is No. 6, and implementing the Rules on Foreign Investments, a Supreme Decree has designated the various government agencies charged with their administration. The remittance of profits and repatriation of capital is to be administered by the Central Bank subject to appeal before the Monetary Board. All other
authorizations are to be finally approved by the Superior Council for Foreign Trade. The Superintendency of Companies and the Superintendency of Banks are to control compliance with the fade-out provisions of the Rules, by the enterprises under their respective jurisdiction.  

EL SALVADOR  

Several tax measures are worth noting within the Fiscal Policy Area.  

There is a new tax on profits from sugar exports. Considering that the current export prices of sugar originate extraordinary profit margins for sugar exporters, Congress has established a new tax based on the export price of sugar. If such price does not exceed $10 per hundred weight, no tax applies. If the price exceeds $10, a progressive rate ranging from 5% if the price is up to $12, to 30% if the price exceeds $25, applies on the excess only. The new tax is to be treated as a marketing cost and therefore it should be deducted in computing net taxable income of the exporting enterprise. Exporters are required to register in a special Registry created by the new statute under the Ministry of the Treasury their contracts. Where the price is not contractually established or the contract is for future delivery, the tax is computed on the quotations of Salvadorian sugar for the preceding week or futures prices in international exchanges, respectively. The new tax has applied from November 27, 1974, to contracts for sugar of the 1974-1975 and subsequent crops.  

A new consumption tax on domestic and imported luxury items has been imposed. It applies to the first sale, transfer, or consumption by producers or importers, made between August 22, 1974 and August 31, 1976. The tax rates are 10%, 20% or 30% depending upon the nature of the product and its country of origin. Among the items taxed at the 10% rate are canned foodstuffs from foreign countries other than those members of the Central American Common Market. Among those taxed at the 20% rate are other foodstuffs such as candy, chocolate, nuts and seafood, cosmetics, jewelery, costume jewelery, and electric appliances, most of them originating in the Central American area. The 30% rate applies to the same products listed under the 20% rate, if originating abroad and outside the Central American area. In computing the tax base for imported goods, import duties are to be included.  

Inheritance and gift taxes are governed by new statutes. Under the new Inheritance Tax Law, the tax is to be reported in tax returns. The rate is progressive, ranging from up to 20% for ascendents and descend-
ents, to up to 50% for remote relatives and bequests to third parties. These rates range from 25% to 50% where the recipients are nonresident aliens. The same rates and family relationships apply to the gift tax. Gifts in excess of two made to the same person in a 5 year period by the same grantor, are accumulated in computing the applicable progressive rate. Among the exemptions are the homestead, life insurance proceeds, deposits in domestic credit institutions, charitable trusts, and donations to religious institutions. Both taxes entered into effect on November 28, 1974.110

Congress has amended the Cigarette Tax Law, effective December 18, 1974. A 42.5% tax is applied on the selling price to the consumer, except if the pack sells for .20 of colón or less in which case the rate is 30%. The price is to be fixed by the Executive Branch. Imported cigarettes are subject to the tax at the time of importation, through the affixing of special stamps on the pack. The cigarette tax had last been amended in 1972, but this amendment, according to Congress, did not achieve the goal of reconciling the interests of the public, the industry and the Treasury.111

Within Area No. 2 there are broader tax concessions for exporters and free zones. The old law for the promotion of industrialized exports to countries outside the Central American Common Market has been superseded by a broader law, as of October 4, 1974. Exports of non-traditional products, whether or not they are industrialized, is encouraged through two categories of incentives: one is for firms which come under any of the three classifications created by the law, and consists of income tax, import duty and capital tax exemptions; the other is for firms which export at least 15% of their output and are not eligible for other incentives, and consists of tax credit certificates. Enterprises are classified in: 1) “net export industry”, 2) “mixed company”; and 3) “trading export company”. “Net export industries” are those located in the commercial and industrial free zones created by the new law and which export all their output outside CACM. “Mixed companies” are those located outside free zones, at least 26% owned by local capital, and which export part of their output outside CACM countries. Both classes are entitled to tax exemption from import duties, and to 10-year exemptions from tax on capital and from income tax levied on the enterprise and on its shareholders or owners. Nonresident shareholders and owners will not be exempt if, in their home country, they are allowed to credit the taxes paid in El Salvador against the home country taxes. “Trading companies” at least 50% owned by local capital and engaged in exporting outside the CACM
nontraditional goods originating in El Salvador or any CACM country enjoy import duty exemption for 5 years, 100% income and capital tax exemption for the first 4 years and 50% income tax exemption for the following 4 years. Nonresident owners and shareholders of such companies are subject to the same exclusion provided for the other two classes of companies. The tax credit certificates will be equal to 10% of the FOB value of each export shipment. The certificates are issued to the order of bearer, are freely negotiable and shall be exempt from all taxes. They can only be used to pay all kinds of direct and indirect taxes. Additional benefits consist of free disposition of proceeds from exports by nonresident investors, and of remittance of profits and repatriation of capital attributable to nonresidents who have registered their investment with the Ministry of Economy. Those companies currently enjoying tax benefits under the prior law now repealed (Law No. 148 of November 12, 1970) shall automatically retain such benefits, although they may take advantage of the additional benefits offered by the new law provided they are, except for the local ownership requirement, eligible under both systems and file an application with the Ministry of Economy to that effect.\footnote{112}

Implementing the new law for the promotion of exportation, the Executive Branch has created an Industrial and Commercial Free Zone under the name of “San Bartolo”. National and foreign manufacturers may lease premises within the zone for the storage or processing of imported raw materials and semifinished goods, employing domestic labor. Goods entering the zone or produced therein may only be exported outside the Central American area or imported into the national territory. The zone shall be run by a Manager appointed by the Foreign Trade Institute.\footnote{113}

GUATEMALA

Concerning Area No. 1, there were substantial revisions within the tax system.

Several tax laws have been amended in an attempt to strengthen public finance. Thus, rates have been increased for the stamp tax from 1.5% to 2%; for the departure tax from three to five quetzales for air travelers and from 1 to 1.5 quetzales for land travelers; for the tax on the first sale of automobiles from 5 to 10% of the selling price; and for the consumption tax on cigarettes from 20 to 30% of the retail price. For the additional tax on liquor, beer and wine, the rates have been more than doubled. The single 3 per-thousand rate of the real property tax has
been replaced by a progressive rate ranging from three to eight per thousand of the appraisal value. The statute of limitations for collecting the stamp tax has been extended to six years. The new rates and rules entered into effect on September 13, 1974. These new rules, as well as those on automobile sales, cigarettes and alcoholic beverages, became effective September 14, 1974. The real property tax progressive rate applies from October 1, 1974. Property appraised at a value below ₡1,000 quetzales is thereafter exempt.\textsuperscript{114}

The same statute provides that legal entities and individuals shall pay a 10% surcharge on their income tax liability for taxable years not already expired by September 13, 1974. The personal exemption and exemptions for dependents have been raised to ₡1,400 quetzales for head of household, ₡700 for single taxpayers, ₡900 for spouse and ₡700 for each eligible dependent. The new surcharge applies only if taxable income exceeds ₡10,000 quetzales. Under the old law, the personal exemptions were ₡1,200 for head of household, ₡600 for single taxpayers, ₡800 for the spouse and ₡600 for each dependent. The new amounts of personal exemptions apply in taxable years not already expired by September 13, 1974.

A new Hydrocarbons Law became effective July 6, 1974. Oil deposits belong to the State and the Government will enter into association contracts at a minimum share of 50% with private enterprises for their exploitation. These contracts are designated as “oil operations contracts”; they may not have a duration longer than thirty years and upon their termination, all assets used by a company revert to the Government. Operating contractors may enter into “oil service contracts” with subcontractors. In lieu of the income tax otherwise payable by operating contractors and by their foreign home office, the former shall pay 40% of the market value of the gross production to which such contractors are entitled. Service subcontractors and concessionaires under standing concessions are subject to the general income tax. Exemptions from import and export duties are granted for all oil-related goods. No exemption is granted from stamp tax, social security contributions, real property tax or from any other levy stipulated in the operating contract. The new law establishes the direct association system as an alternative to the old concession system. Existing concessions will continue to be governed by the Petroleum Code. The Code is treated as abrogated as far as operating contractors are concerned. The law also lists at least 14 clauses which must be contained in “operating contracts” and provides for reporting and control of goods and assets imported duty-free.\textsuperscript{115}
Regulations under the recent law imposing an export duty in lieu of income tax have been passed. The regulations prescribe sources for quotations of sugar, beef, cotton, coffee and fish. The tax is to be paid by the exporters for the account of the producer. The producer shall credit the levy against its income tax liability; but under no circumstances will the Treasury refund the amount by which the export duty may exceed the income tax liability. The regulations provide that sales contracts at a future date are to use the quotation for futures in the international commodity exchanges. The regulations entered into effect September 26, 1974.\(^\text{116}\)

Within the Industrial Promotion Area, several provisions of the Regulations under the Central American Convention on Tax Incentives for Industrial Development were amended as of December 4, 1974. The amendments deal with treatment of problems created by competition among enterprises of countries signatory to the Convention. The revised articles comprise the Chapter entitled "Problems relating to competition." The Order refers to the Rules without mentioning the Order whereby such Rules were approved. Regulations were issued by Guatemala, but such Regulations were to prevail until uniform Rules were approved. Uniform Rules were passed by the Executive Commission for the Central American Common Market and approved by Guatemala by Order of the Ministry of Economy effective on September 10, 1971.\(^\text{117}\)

Under a new law for the development of the forestry and pulp industries, resident individuals and domestic legal entities will be granted several tax benefits. Among them is a credit for expenditures in afforestation of up to 50% of the income tax payable in the year in which such expenditures are incurred. Pulp factories will be exempt from income tax during the first ten years of production and from the stamp tax for the first five years. Other exemptions relate to the property tax, to import duties on equipment utilized in forestry and to special levies imposed by the new law on cutting trees and on sales and exports of lumber. The new export duty is applied on the FOB value at the rate of 20%, 10% or 5% depending upon the type of lumber. The law became effective on August 27, 1974. Within three months thereafter all forests and related industries must be registered in the National Forestry Institute (INAFOR), an agency created by the law to execute and administer its provisions.\(^\text{118}\)

Broad powers to administer the Tourist Promotion Law have been granted to the Tourist Institute by new regulations passed under said
law. The regulations lay down guidelines with respect to allocation of zones declared by the Institute to be of tourist interest, and set forth the procedure applicable to projects submitted to the Institute with a view of obtaining the tax concessions granted by the law to approved tourist projects. Assets imported duty-free by eligible enterprises may not be transferred without prior authorization of the Tourist Institute. If the transfer takes place within 5 years from importation, all duties waived must be paid. Import duty as well as income tax concessions are provided for in the Tourist Promotion Law.¹¹⁹

Only one measure is worth noting in the Social Security Area. In addition to regular social security coverage, newsmen or their survivors will enjoy retirement, death, and disability benefits under a Newsmen Security Fund Law. The Fund is to be financed through a 1% payroll contribution and a .50% employee contribution. The law became effective on June 29, 1974. Regulations to be issued are to designate the governmental agency to which contributions are to be paid and which shall pay the benefits to the insured newsmen or their survivors as prescribed by such regulations.¹²⁰

Concerning Area No. 5, Congress has enacted new legislation which tightens tax administration, in order to cope with widespread tax evasion. Among the measures provided in the new statute are the requirement of a sailing permit, filing of tax clearance certificate to import or export goods, information returns regarding fees and rentals paid, revised procedures for settling tax disputes, and imprisonment for tax evasion. Congress has also provided for improvement in the caliber of the Internal Revenue Bureau with respect to ability, expertise and honesty of its personnel. The new law entered into effect on October 22, 1974.¹²¹

Private warehouses have been authorized to act as in-bond warehouses. To this effect they must meet various requirements set forth in the new statute. Goods deposited in an authorized in-bond warehouse may not be offered as collateral or be covered by warehouse receipts while import duties remain unpaid. No bonded merchandise may remain deposited more than 6 months; however, this term may be extended for up to a similar period by Customs authorities.¹²²

A Special Situation developed towards year end. Honduras has been granted preferential treatment for the importation of certain products into Guatemala, from December 1, 1974. The Order approves an Agreement signed by Honduras and Guatemala, whereby duty concessions will
be granted by Guatemala for at least one year to certain products listed in the Order and originating in Honduras, without reciprocity.\textsuperscript{123}

**HONDURAS**

No significant changes have been made under Area No. 1.

In order to curtail imports of motor vehicles, the import-duty tariff has been raised substantially as of July 11, 1974. The new rates are reduced for importation of used and rebuilt vehicles. The new rates range from 10\% ad valorem for jeeps whose CIF value does not exceed 6,000 lempiras to 90\% ad valorem for passenger vehicles whose CIF value exceeds 7,000 lempiras. Used vehicles shall pay the applicable rate reduced by 10\%, 20\%, 30\% or 40\% if a vehicle is one, two, three or more than three years old, respectively. The rate reduction for rebuilt vehicles is 10\%.\textsuperscript{124} The new duties levied on imported motor vehicles from July 11, 1974 will not apply to vehicles shipped or paid for before that date.\textsuperscript{125}

The 2-cents of lempira-per pound tax levied on banana exports has been repealed. In its stead, a similar tax has been established at the rate of 1.25 cent of lempira per pound, from August 26, 1974 and increasing progressively each year to reach 2.50 cents of lempira from January 1, 1979 on. Similarly to the repealed tax which had been imposed, promotional sales or special sales to countries which have not been a regular market for banana exports prior to August 23, 1974, may be exempted from the duty by the Executive Branch. The levy is payable within sixty days of shipment; it is governed by Customs Law; and its revenue is to be appropriated to a new General Treasury account designated “National Development Fund.” The new rates apply to shipments made under the old law but still pending payment of the duty.\textsuperscript{126}

Within Area No. 2, capital investment has been favored. In order to develop a securities market to promote private investment in activities beneficial to the country such as manufacturing and tourism, the National Corporation for Investments Law has been enacted. Financial institutions are required to contribute to the capital of the new corporation 10\% of their own capital and reserves; and enterprises enjoying the benefits of the Industrial Promotion Law and of the Central American Convention on Tax Incentives for Industrial Development are required to contribute 10\% of the tax exemptions granted them. Such contributions will be refunded over twenty years and will earn 6\% interest per annum which will be exempt from income tax. Also exempt from income
tax will be the interest from bonds issued by the Corporation. The Corporation is authorized to finance and invest in domestic enterprises provided that 51% of the equity capital, including the Corporation's share belongs to nationals. The Corporation may also invest in enterprises owned by or offered to foreigners, which are declared to be strategic for the national development.127

Also, mining has been favored. Exercising the authority granted it by the Mining Code, the Executive Branch has approved the list of machinery and equipment for the mining industry, which may be imported duty-free up to December 31, 1974. Pursuant to articles of the Mining Code enacted by decree on December 26, 1968 and which became effective on July 30, 1970, machinery, equipment, replacement parts and special materials not produced within Honduras or the Central American region may be imported free from duties.128

Concerning Area No. 5, various provisions of the Customs Code have been revised. They are those regulating the activities of freight-forwarders. Pursuant to the amendments freight-forwarders are required to register with the National Federation of Freight-forwarders. In order to be eligible to register, a person must either take and pass an exam, or show that he or she is a member of a Customs Association.129

MEXICO

Aside from a Constitutional amendment which reserves to the Federal Government the power to tax imported and exported goods,130 substantial Tax Policy reforms were made towards year end.

Numerous provisions of the Income Tax Law have been amended effective November 19, 1974, except for those governing taxation of individuals, which apply from January 1, 1975. Among the changes of interest to corporations and nonresidents are the following: 1) express regulation of taxation of commercial leasing; 2) new rules on deductibility of net operating losses; 3) deductibility of indispensable business expenses rather than merely normal and appropriate expenses; 4) deductibility of contributions to a fund for seniority allowances; 5) withholding of tax on nonresidents at progressive rates rather than at a 20% minimum, and 6) revised rules on tax administration. Construction enterprises may elect to be taxed according to rules set forth in the new law. The top brackets of the progressive taxes on individuals have been raised from 42% to 50% and the exemption granted for sales of urban
property has been reduced by 50%. The changes affecting administration of the tax relate, among other things, to tax returns, imputation of income, payment of the tax through stamps and computation of tax payable by shareholders upon liquidation of corporations.

Under the same statute, certain rates of the gross receipts tax have been revised. Thus, the sale or lease of automobiles is taxed at 5, 10, 15 or 30% depending upon the value of the asset. Receipts derived from technical services rendered on behalf of nonresidents and commissions for exports are exempt.

Also amended were the tax on beer, and tobacco, the tax on possession and use of automobiles, and the stamp tax with respect to trusts, credit institutions, insurance companies and bond companies. Revised tax incentives have been granted to concessionaires of coal and coal processors. The amendments became effective on November 19, 1974, except for those relating to the tax on beer, which took effect on December 1, 1974.

Lessors of equipment to manufacturers, hotels and hospitals will be entitled to accelerated depreciation under the terms contained in an Order of the Undersecretary of Revenue. In order to enjoy the tax benefit, commercial lessors must comply with the requirements of commercial leasing contracts set forth in the Income Tax Law. Similar privilege is granted to the steel industry under another order of the same authority. In both cases, the method of depreciation to be applied is the straight line, the acceleration consisting in attributing to the assets a shorter useful life.

Numerous items of the import duty tariff have been revised, effective December 18, 1974. A major revision of duties has been made through nine executive decrees. The items affected include machinery, electronic equipment, animal products, paints, etc. Several coloring products originating in LAFTA countries will be exempt or subject to lower duties pursuant to one of the decrees dated October 31, 1974.

Sales of gasoline have been subject to a 50% tax from November 19, 1974. Receipts from such sales are not subject to the gross receipts tax. Taxpayers are allowed to transfer the tax burden to consumers. The new tax applies to imported gasoline as well as to gasoline produced by the state agency Petróleos Mexicanos.

As in previous years, gas stations may elect to pay the overall income tax normal rate on presumptive income equivalent to a percentage
of gross receipts. For the fiscal periods from July 1 to December 31, 1974 and from January 1 to December 31, 1975, the percentage has been fixed at 1.95% of gross receipts for each of such periods. A similar method of computing taxable income applied for the fiscal period from July 1, 1973 to June 30, 1974, except that the percentage was 2.10% of gross receipts. Taxpayers who do not elect to report income on this presumptive basis must comply with the general rules contained in the Income Tax Law.137

Pertaining to Area No. 2, several border towns have been declared eligible for the benefits granted to shopping centers located therein. Among such benefits are exemption of up to 100% from import duties and accelerated depreciation of fixed assets. One general Declaration has been issued for each of the following towns: Ojinaga (Chihuahua), Agua Prieta, San Luis, Rio Colorado (both in Sonora), Piedras Negras (Coahuila), Chetumal, Cozumel (both in Quintana Roo), Tijuana, Tecate and Ensenada (all in Baja California).138

In order to protect trade and tourism within border zones, the Executive Branch has waived the portion attributable to the Federal Treasury from certain gross receipts taxes, as well as the newly-imposed tax on gasoline. The waiver applies to the 15% gross receipts tax pay-able by restaurants and taverns located in border zones, as well as to the increase of the tax applied on sales of automobiles, over the tax levied in 1974. These taxes were last amended by article 2 of the Tax Reform Law. Art. 3 of the aforementioned law established a tax on sales of gasoline. This tax will not apply to gasoline sold within 20 kilometers from the border with the United States, where gasoline sells at lower prices.139

With regard to the Tax Administration Area, guidelines for granting tax subsidies to selected industries and the National Workers Housing Fund have been set forth by law. As a general rule, tax subsidies may not exceed 50%, or 75% 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 entitled by law to import duty-free capital assets and supplies, industries declared to be of national interest, transactions involving the National Workers’ Housing Fund, etc.140
Finally in Area No. 6—Special Situations—it is to be observed that enforcement of minimum salaries was tightened. Heavy fines and imprisonment may be applied to employers who fail to pay the minimum salaries established by law. These penalties and other salary-related rules are contained in amendments introduced in the Federal Labor Law, effective December 24, 1974.\textsuperscript{141}

NICARAGUA

The most significant occurrence within Area No. 1 was the overhaul of the sales tax effective November 16, 1974. The basic rate has been raised from 5 to 6\% and it applies on sales made by taxpayers to non-taxpayers so that each product shall be taxed only once. Manufacturers selling over 300,000 córdobas per year are regarded as taxpayers. The tax applies on imports and services, as well, even if the seller is not a taxpayer. Certain listed luxury items are also subject to a selective consumption tax the rate of which ranges from 10 to 63\%. This tax is to be applied on the retail price and included in computing the basis for the general sales tax. The list of luxury items, includes foodstuffs taxed at 10 to 35\% rates, cosmetics taxed at 35 to 55\% rates, tobacco and cigarettes taxed at 42 to 45\% rates, and liquor taxed at a 63\% rate. Most of other luxury items listed are taxed at a 10, 20 or 30\% rate.\textsuperscript{142}

A new law governs the personal property tax. The levy is applied at the rate of 1\% on the difference between assets consisting in personal property and liabilities of an individual or legal entity as of June 30 of each year. Credits on behalf of nonresidents are not taken into account unless the tax imposed on the foreign lender has been withheld by the debtor taxpayer. Household goods, municipal bonds, certain savings accounts, tools, books and vehicles for personal use are excluded.\textsuperscript{143}

The tax on real property has also been revised. Beginning November 26, 1974, owners of real property have been personally liable for the levy which is applied at the flat rate of 1\% of the appraisal value, less a credit for outstanding mortgages. Under certain conditions, taxpayers are entitled to a tax credit equivalent to 1\% of the mortgage balance, while individuals with net-worth in real estate below 30,000 córdobas are entitled to a credit that is directly deductible from the tax and equal to 1\% of the fiscal value of the property.\textsuperscript{144}

The import duty on motor vehicles has been revised as of November 27, 1974. The new rates apply on the CIF value and run from 10\% on
jeeps valued up to $5,500, to 75% on passenger and racing automobiles valued over $7,000. Jeeps, land rovers and the like, exceeding $5,500 are taxed 30% ad valorem. Station wagons and other automobiles valued up to $3,000 are taxed 30%. The rate increases by 10% of the CIF for each additional $1,000.145

Pursuant to amendments made in the Stamp Tax Law, import documents will pay a stamp tax equivalent to .50% of the CIF value of the goods imported. Other amendments make the notary public, holders and officers intervening in the processing of taxed documents, jointly liable for payment of the stamp tax.146

The exemption from income tax granted to certain deposits has been extended to include interest from securities issued by authorized financial institutions, and the 50,000-córdobas ceiling for deposits in savings accounts entitled to tax-free interest has been eliminated. The capital invested in such securities has been exempted from the tax on personal property.147

Referring to Area No. 2, legislation favoring immigration of retired persons has been enacted. To be eligible, a person, whether alien or Nicaraguan national who has been abroad more than ten years must have foreign pensions or foreign source periodic income of not less than U.S.$400 per month plus U.S.$100 for each dependent. Such income will be exempt from income tax. An eligible person is permitted to import household goods valued up to U.S.$10,000 plus one automobile free from import duties. Sale of duty-free household goods within three years from importation and sale of the automobile within five years will make the immigrant liable for the duties waived. Persons entering the country under the new law may not engage in any activity for profit within Nicaragua, except aliens who invest at least U.S.$100,000 in manufacturing.148

PANAMA

Among the measures enacted in Area No. 1, several articles of the Fiscal Code have been amended by a law that took effect on June 6, 1974. Pursuant to the amendments, restrictions have been imposed on the deduction of interest from taxable income by individuals, while interest of loans made by domestic or foreign banks to farmers will be exempt if certain conditions are met. Other amendments deal with taxpayers' remedies, and liability of witholding agents. The same law establishes
that the base for the property tax shall be the higher of the following values: 1) the official appraisal, 2) the selling price or 3) the appraisal for inheritance tax purposes. Any interest paid by individuals could be deducted under an old article of the Fiscal Code. As now amended, only interest on mortgage loans for purchase, construction or remodeling of the taxpayer's home and interest on educational loans may be deducted under that provision. The exemption established in the new article applies if the interest rate does not exceed 8% and the farmer applies the proceeds of the loan in the production of rice, corn and beans.

The Fiscal Code has also been amended with respect to application of import duties to goods imported by passengers and tourists. Among other amendments, the rates applicable to used automobiles have been revised. The rules governing importation of automobiles by tourists and by Panamanian citizens who have been abroad for at least two years have been tightened.

A new tax has been imposed on domestic bank loans from November 27, 1974. It applies at a .50% rate and is to be withheld at the time of granting the loan. Loans to enterprises engaged in manufacturing, farming, construction and housing are exempt. Banks and financial institutions are required to withhold the tax on a monthly basis in the case of overdrafts. The amounts withheld are to be paid to the National Banking Commission within the first five working days of each month.

Also, domestic cigarettes have been subject to a .20 of balboa excise tax per carton since October 2, 1974. Formerly, the tax on domestic cigarettes was .02 of balboa per carton.

The regulations under the provisions of the Fiscal Code in connection with consular fees for services rendered by Consuls on behalf of Panamanian flag vessels have been replaced by regulations.

Within Area No. 2, the law which created the "Pre-investment Fund" for financing of technical and economic feasibility studies has been amended. One of the amendments provides that the salaries of employees of foreign consulting firms retained by borrowers from the Fund are exempt from all taxes.

With respect to Tax Administration, an important decision of the Supreme Court of Justice has held to be constitutional several provisions dealing with the assessment of fines for tax evasion. According to the Court, a fine from five to ten times the tax evaded is not confiscatory.
Furthermore, such a fine may be imposed by the Tax Bureau, rather than by the District Attorney Office, without violating any constitutional mandate. The court upheld an article of a law of 1934 which grants a cause of action to any person, for denouncing tax evasions and for sharing in 25% of the fine imposed to the delinquent taxpayer. The Court also upheld a decree of 1970 whereby the Tax Bureau was overhauled and was given the power to prosecute tax evasion.\footnote{155}

Regarding payment of income tax on gains from real estate, since September 23, 1974, sellers of real property have been required to pay 1% of the selling price to the Income Tax Bureau as an advance of the income tax payable in the year when the sale is made. If no gain is derived from such sale, a certificate to that effect issued by the Bureau is to be submitted to the public notary before whom the conveyance is executed. Gains from the sale of real property are taxed as ordinary income pursuant to rules contained in Art. 701 of the Fiscal Code. To this article, a clause has been added requiring the advance payment or the Bureau's certificate as a prerequisite to register the deed.\footnote{156}

Concerning the Special Situations Area and under amendments to the Banking Law, banks are to be licensed. Three kinds of licenses will be granted. A general license applies to banks incorporated in Panama and to branches of foreign banks, doing business within or without Panama. An international license is granted to domestic banks or branches of foreign banks which do business exclusively outside Panama. A representation license is granted to foreign banks having a mere representation office within Panama.\footnote{157}

**PARAGUAY**

Several Tax Policy changes occurred under Area No. 1.

The law governing the 1974-1975 sugar crop has granted total exemption from any duty or tax on the exportation of sugar. This law also provides that the selling prices for exported sugar will be no less than those fixed by the Central Bank on the date of exportation.\footnote{158}

The Tax Bureau has ruled that the stamp tax levied on salary receipts at the rate of 1.50% applies on the gross amount of the salary prior to any deduction for social security contributions. It is payable by affixing stamps to all documents showing payment of an obligation or receipt of cash.\footnote{159}
Beginning May 8, 1975, transportation carriers are required to pay a business license tax as imposed by a new law. The new tax is one “minimum wage” for each vehicle, ten “minimum wages” for each inter-municipal line, and twenty-five “minimum wages” for each international line. The minimum wage is that prevailing in the capital of the Republic, approximately 4000 guaranies.\textsuperscript{160}

Exercising the authority granted it by law, the Executive Branch has reduced the rate of the tax on consumption of domestic cigarettes. The present decree reduces the 35% ad valorem tax to a fixed tax of 2.50 guaranies per 20-cigarette pack if the retail price does not exceed 15 guaranies.\textsuperscript{161}

Area No. 2 regarding Promotion of Economic Development, features the revised administration of tax incentives. Enterprises benefited by import duty exemptions under the Industrial Promotion Law are subject to tighter controls pursuant to a new decree. Detailed reporting of inventory and capital assets is now required.\textsuperscript{162}

Exercising the powers granted it by the Political Constitution, the Executive Branch has implemented the Investment Promotion Law with respect to applicability of tax benefits while an enterprise is being formed. According to such implementation, the exemptions from export duties and income tax granted by Executive Decree may only apply after all legal formalities for the formation, registration and operation of the enterprise are complied with.\textsuperscript{163}

Duty-free imports by oil industry contractors and subcontractors have been regulated. Such imports may not be financed through the national banking system, and will be subject to a 3% depreciation allowance based on their CIF value. While investments made by oil contractors and subcontractors are to be negotiated through banks authorized to operate in foreign exchange, the financing of the assets and materials imported free from customs may not be made using foreign exchange from the national banking system.\textsuperscript{164}

It has been decreed that, for all legal purposes including tax incentives, the construction industry is to be regarded as a manufacturing industry. On the ground that the proposed hydro-electric works on the Paraná River will require intensive construction, and domestic construction firms are to be encouraged to meet that need, the tax benefits currently enjoyed by manufacturing industries are made available to private
Construction enterprises (whether national or foreign). Such benefits consist of 50% import duty reduction on raw materials and supplies used by manufacturers.\textsuperscript{165}

Within Tax Administration, Area No. 5, the pricing of exports and imports have been revised.

The minimum prices of tobacco and cotton fibers, upon which export duties are applied, have been lowered by Decree. Export duties on all other goods are to be applied on 70\% of the minimum prices fixed by the Central Bank. The present Decree also regulates exports by cooperatives of producers. Their exports are exempt from export duties according to the Law for the Promotion of Cooperatives, provided they comply with various formalities prescribed by that law.\textsuperscript{166}

Congress has approved with certain changes, the Decree-Law which regulates pricing of imports. The law authorizes the Executive Branch to grant partial exemption of import duties paying heed to the country's social and economic policy. Guidelines for determining the value of imports subject to ad valorem duties had been established. Among the guidelines maintained by the approving law are those relating to evaluation of foreign patents and trademarks connected with imports by companies affiliated with the seller. The new law is to enter into effect sixty days from its promulgation.\textsuperscript{167}

Implementing provisions of the Income Tax Law which treat as tax returns financial statements filed with the Income Tax Bureau, the Executive Branch has issued a decree creating a Fiscal Registry of Accounting Professionals. Taxpayers' financial statements will have to be signed by accountants listed in the new registry. According to Art. 29 of the Income Tax Law, the income tax is assessed on the basis of the financial statements to be filed annually by taxpayers, as a return. The Registry will operate under the Income Tax Bureau, which has been charged with its administration and control.\textsuperscript{168}

Lastly within the Special Situations Area, Paraguay and Chile have signed an investment and industrial development agreement. In order to prevent double taxation of companies covered by the agreement, special conventions will be negotiated by both countries. Both governments will grant tariff benefits to promote marketing of the goods produced by enterprises covered by the agreement. A mixed permanent Paraguayan-Chilean Commission shall determine the sectors of the economy to which comple-
mentary industrial projects are to be related. Contributions to the capital of enterprises executing such projects may be made in machinery, replacement parts, supplies, foreign currency and/or technology.\textsuperscript{169}

**PERU**

Numerous Fiscal Policy developments took place in Peru during 1974.

Important changes on the allowance of personal deductions by resident individuals have been made in the Income Tax Law. The rules for determining the "minimum vital salary" used as a standard in measuring the amount of personal exemptions have been revised, effective for taxable year 1974. Another amendment affects the standard personal deduction equivalent to 15\% of gross income from employment, which has been limited beginning with the taxable year 1975, to 1\(\frac{1}{2}\) annual "minimum vital salary".\textsuperscript{170}

Pursuant to the Income Tax Law and Regulations thereunder, foreign carriers are taxed on presumptive income equivalent to 1\% of their gross receipts, excluding taxes levied on users of the service, refunds to passengers, and amounts paid by passengers on account of lodging. According to the Tax Court, other items such as commissions paid to travel agents by an airline are not deductible. Implementing Art. 49(a) of the Income Tax Law Art. 32 of the Regulations allows certain specific items to be deducted from gross receipts. The taxpayer had claimed a deduction for commissions paid to travel agencies and brokers on the ground that the list of article 32 was merely illustrative.\textsuperscript{171}

In a controversial resolution, the Tax Court has treated as a transfer of a business in bulk the acquisition of the assets and liabilities of a corporation by another corporation through their merger. As a result, the statute of limitations for assessing against the surviving corporation taxes owed by the absorbed corporation was held to be four years rather than one. Art. 77 of the Income Tax Law and Art. 8(2) of the Tax Code provide that the statute of limitations for assessing tax on the purchases of the assets and liabilities of an enterprise is one year, whereas in the case of assignment of property in bulk, Art. 17 of the Tax Code fixes the statute of limitations at four years. Under Art. 8(2) of the Tax Code, one of the methods of purchasing assets and liabilities is the merger of the transferor company with the transferee company.\textsuperscript{172}
Furthermore, according to the Tax Court, dividends received by a legal entity such as a branch of a foreign company, and subject to 25% tax, are not to be included in gross income of such legal entity. Upon distribution by the legal entity to nonresident shareholders, or parent company, the 25% tax already paid is to be credited against the 40% tax payable by nonresidents. The Tax Bureau had included the net dividend received by the branch of a foreign company after payment of the 25% tax in the branch’s taxable income and levied the 40% tax on the balance distributed to the foreign parent company. The Tax Court’s decision is based on Art. 24 of the Income Tax Law, which provides that dividends are not to be included in gross income of any legal entity.173

According to the Tax Bureau, payments to a foreign firm for assembly and installation of machinery are income from Peruvian source subject to Peruvian tax. Similarly, the salaries paid outside Peru to the technicians for the services performed within Peru, are subject to Peruvian tax. The Bureau based its ruling in Art. 11-e and 49-d of the Income Tax Law, which provide that fees and remunerations for technical or any other kind of assistance rendered from abroad on behalf of Peruvian individuals or legal entities are regarded to be from Peruvian sources and subject to tax on a percentage of the gross amount. If the assistance is rendered by nonresident individuals the percentage is 70 and the tax rate 40%; thus the effective tax rate is 32%. If the assistance is rendered by a legal entity, the percentage is 60 and the tax rate is also 40%; thus the effective rate is 24%.174

The Income Tax Bureau has ruled that the payment received by an employee for reducing the vacation time to which he or she is entitled is subject to income tax. The ruling was issued on the grounds that such payment is not an indemnity. The ruling also held taxable the payment of vacation time upon the termination of the employment contract.175

As the salient development in Area No. 2, the Industrial Promotion Law has been further implemented. Special rules have been passed to implement the expropriation of enterprises engaged in basic industries. Where the same enterprise is engaged in non-basic industries, and it is feasible to separate the assets connected thereto, such assets shall be transferred to the shareholders or to a new corporation formed by shareholders representing at least two thirds of the expropriated enterprise. No transfer, sales or property taxes shall apply to such transfer of property, and no stamp tax shall apply to the formation of such new corpora-
tion. Where a new corporation is formed, the basis for the assets on the transferee’s books shall be the same basis shown on the transferor’s books.\(^{176}\)

The Executive Branch has been vested with the power to revise the list of first-priority industries contained in the Industrial Promotion Law. Under the law, industrial enterprises are classified according to their degree of priority for the industrial development of the country. Such a statutory listing has been found to afford little flexibility for the fulfillment of the objectives of the law.\(^{177}\)

Area No. 4 features the creation of the single social security contribution. Consistent with the consolidation of all pension funds under one single system, contributions to the various funds have been consolidated in a single contribution to the National Social Security Fund. The amount of the contribution and the ceilings of salary subject to contribution are those established by the legislation in force or to be established in the future. In computing the salary subject to the single contribution, all remuneration for services is to be included, except extraordinary bonuses, profit-sharing, and payments for entertainment, traveling or uniforms required by the job. Employers are required to pay illness and maternity benefits for the account of the Fund. The Fund shall deduct such payments from the contributions due in the following month.\(^{178}\) A consolidated text of the Social Security Pension System Law and its amendments was released by the Executive Branch.\(^{179}\) Implementing the law which created the single contribution to the social security system, a Supreme Decree has laid down a table and guidelines for computing the amount of wages subject to contribution. Under another statute, the employer’s obligation to pay certain benefits for the account of the Social Security Fund has been eliminated.\(^{180}\)

Dismissed employees who during employment were covered by compulsory social security benefits, will be entitled to elect to remain insured for medical services by the Peruvian Social Security System. Such persons are required to pay a contribution based on the average of the salary earned during the last year of services. In order to be eligible for the extended benefit, a dismissed employee must have been covered by compulsory social security insurance for at least twenty-four months and be over fifty-three years of age or fifty-five years, if female or male, respectively. The optional medical insurance terminates if the insured ceases to pay the contribution or if he or she becomes insured again under the compulsory system.\(^{181}\)
The only Special Situation to be noted relates to the admission of Venezuela to ANCOM. The Peruvian Government approved the Additional Instrument to the Cartagena Agreement dealing with the accession of Venezuela to the Andean Pact.\textsuperscript{182}

**URUGUAY**

Within the Fiscal Policy Area various changes occurred with the introduction of new legislation.

Important changes have been enacted with respect to the income tax levied on individuals and business enterprises. Individual income tax has been partially repealed as of January 1, 1974. The only tax bracket maintained is that of income derived from commercial and industrial activities. The tax on industrial and commercial activities levied on domestic and foreign companies and the tax on distributed profits have been repealed and a new tax on similar activities has been created applicable to fiscal years commencing on or after January 1, 1974. Among the items of income subject to the new levy are royalties and fees for technical assistance charged by nonresidents to persons subject to the tax, and dividends and distributive shares of profit paid or credited to nonresidents by persons subject to the tax. The tax rate is 20\% except for corporations and foreign companies and nonresident individuals, which shall pay a 14\% surtax totaling a 34\% effective rate. Dividends and distributive shares of profits are exempt from the surtax. Foreign insurance, transportation, news and motion picture companies pay the tax on the percentages of gross income fixed by the new law. Up to 50\% of net income reinvested in industrial equipment will be tax-free and must be capitalized. While the funds earmarked for reinvestment are not applied, 20\% thereof must be invested in state securities. Profits from exports of industrialized products are exempt. The exemption previously granted to income derived from industries of interest to the Nation has been eliminated.\textsuperscript{183}

Among the numerous changes introduced by new legislation are the repealing of the inheritance and substitute inheritance taxes and of excise taxes on wines and cider, the increase of the rates of the net worth tax, the applicability of the stamp tax for one more year and the establishment of a single annual tax clearance certificate system. Net worth tax rates are progressive from .85\% to 3.80\% for individuals, 3.5\% for legal entities, and 4.2\% on bearer securities and bank accounts in street name. Also amended are the value-added tax and excise taxes on fuel.\textsuperscript{184}
Exercising the authority granted it by the law which amended several taxes, the Executive Branch has revised the rates of the stamp and value-added taxes, effective November 1, 1974. The stamp tax rate has been reduced from ten to five per thousand. The value-added basic tax rate has been fixed at 18%, and the minimum rate at 6%.

Several provisions of the Foreign Investment Law have been amended. Profits remitted abroad will be subject to a 40% additional tax on the excess over 20% of the registered capital. Other amendments relate to existing foreign firms and domestic firms owned by foreigners in less than 50% of their equity. Domestic companies will be treated as foreign capital companies if less than 50% of their equity is held by nonresidents in accordance with the foreign investment law and by express authorization of the Executive Branch. Existing foreign firms have 180 days from August 2, 1974, rather than from April 5, 1974, to make the one-time only choice of whether or not to be governed by the new law. Furthermore, regulations under the Foreign Investment Law, as amended, have been issued. Among other things, the regulations prohibit any limitation by the Central Bank on the remittance of profits, and require the adjustment of profits for computation of income and excess profits taxes, pursuant to the rules of the Income Tax Law, without deduction of exempt income nor foreign source income. Profits not remitted within two years must be capitalized. Foreign companies in existence within Uruguay as of July 26, 1974 may elect to be subject to the current foreign investment legislation by registering in a Registry created by the regulations, no later than February 12, 1975. Foreign companies so registered are not subject to any limitation administratively imposed on the distribution of profits.

The national list of Uruguay for goods from LAFTA countries entitled to tariff reductions and exemptions from January 1, 1974 has been released. Concessions granted by Uruguay to Ecuador and Paraguay are contained in two separate lists. The national list is drawn in accordance with the negotiations conducted among members of the Latin American Free Trade Association established by the Treaty of Montevideo. Article 6 of said Treaty provides that lists to reflect the tariff concessions agreed upon by member countries are to take effect on the first day of January each year.

Regulations under the law establishing the sole tax on small merchants have been passed. The tax is levied in lieu of the tax on income from industry and commerce and the added-value tax. The tax rate is 10%, 5% or 2% depending upon whether the taxpayer deals with goods subject
to the value-added tax at the basic rate, at the minimum rate, or exempt from the value-added tax, respectively. The Executive Branch has been authorized to fix the maximum amount of actual or imputed gross receipts for merchants to qualify under the law.189

Regarding Area No. 2, two laws encouraging exports have been passed. One law extends tax rebates to exports by trading companies and relieves exporters from the obligation to submit tax clearance certificates prior to each exportation. Under the other law, retroactive to October 15, 1973, exports of Uruguayan products are exempt from customs duties, taxes and additional levies. The exemption does not include discounts and withholdings applied on the proceeds from exports by the Central Bank.190

Also regarding Area No. 2, the securities market has been aided by a new law. Local corporations listed in the Stock Exchange may issue debentures adjustable according to the devaluation of the currency but not in excess of the increase reflected by the average salary. Such debentures will be exempt from stamp tax. The capital represented by them will be exempt from the net worth tax levied on individuals and on local entities. No corporation may issue adjustable debentures in an amount exceeding 30% of its paid-up capital and surplus. The issuer may fix the terms, interest and other conditions of the debentures, subject to the approval of the Securities Exchange.191

Concerning Tax Administration and exercising the authority granted it by law, the Executive Branch has issued a decree providing for the payment of estimated tax by taxpayers liable for the new tax on industrial and commercial activities. The payment is to be computed at the rate of 50% of the tax that would have been paid the prior year, rather than of the tax actually paid on profits from similar activities under the old law. This decree makes it clear that for all legal purposes the tax on income from industrial and commercial activities is a new tax and not a mere revision of the old tax on income from similar activities, which was repealed as of January 1, 1974, upon the new levy entering into effect.192

Regulations implementing the recent Tax Amnesty Law have been issued. Manufacturers are allowed to apply funds held by them abroad, to the importation of capital assets and raw materials.193

There is only one Special Situation to be noted under Area No. 6 — the lifting of the freeze imposed on dividends. The Executive Branch has approved a Resolution of the Commision for Productivity, Prices and Income whereby earlier resolutions of the Commission imposing a ceiling
on the dividends distributable by corporations are repealed. By the old resolution, corporations were allowed to distribute up to 24% of the capital determined for purposes of the substitute inheritance tax or up to the amount of taxable income after certain adjustments.194

VENEZUELA

Pursuant to the extraordinary powers granted it by Congress, the Executive Branch passed several decrees containing Tax Policy changes.

Under an amendment to the Income Tax Law, the 60% rate of the income tax payable by companies and individuals engaged in the exploitation of hydrocarbons and related industries has been increased to 63.5%. The amendment became effective November 2, 1974.195

Under another amendment to the Income Tax Law, resident individuals will be entitled to higher personal exemptions. Thus, the personal exemption has been doubled, from 12,000 bolívares to 24,000 and non-business deductions have been extended to include all medical expenses, certain housing and education expenses, and certain insurance premiums. Tax credits for self and dependents are now available only for individuals whose annual taxable income does not exceed Bs. 120,000. Taxpayers whose taxable income exceeds Bs. 80,000 but not Bs. 100,000 per year may deduct 50% of the amounts allowed as personal non-business deductions to those whose income does not exceed Bs. 80,000.196

Retirement and disability pensions will now be exempt from income tax, while the exemption granted under the old law to indemnities received by workers will apply only if they are paid in accordance with the law or collective bargaining contracts. Such indemnities may be deducted by the employer, including mining and oil employers. The authorization granted the Executive Branch to establish income tax exemptions for certain activities has been broadened to include profits from term deposits, from loans to build hotels, from interest of deposits in financial institutions, from farming, fishing and forestry, from certain industries, from exporter’s tax certificates, from the sale or leasing of hotels and low-cost housing, from domestic and international transportation, and from publicly held corporations. The exemptions to be granted by the Executive Branch will only apply to the extent that they actually benefit the taxpayer, in the case of income which is also subject to tax in a foreign country. The exemption for international carriers is contingent on reciprocity and will be granted only to the extent that the respective foreign country exempts
Venezuelan transportation companies. Other changes relate to the investment credit available to enterprises and investors. The amendments became effective on September 4, 1974.197

Exercising the power granted by the Income Tax Law, as amended, the Executive Branch has decreed that profits from farming, fishing and forestry, and interest from loans relating thereto received from September 5, 1974 are exempt from income tax. Investors in such enterprises will enjoy exemption from income tax on 20% of the funds applied to shares of such enterprises and used by the enterprises in acquiring fixed assets. The Executive Branch has also decreed that profits from tourist activities, from selling or leasing hotels, and from loans of 10-year term or longer are exempt from income tax from September 5, 1974. Another decree declares exempt explorers' tax certificates, from September 5, 1974. Interest from certain term deposits, savings deposits and mortgage notes will also be exempt from September 5, 1974, if the conditions set forth in a new decree are met. A fifth decree grants investment tax credit equivalent to 15% of investments in fixed assets by enterprises engaged in manufacturing, generation and distribution of electric power, or transportation.198

Prior to the amendment of the Income Tax Law, two decrees granting exemption from income tax for certain interest income had been passed. The interest from certain mortgage bonds issued by authorized financial institutions is exempt if it does not exceed 8% per year. It is not clear whether the exemption does not apply at all if interest exceeds 8%, or if it is barred only with respect to the interest exceeding 8%. The interest from term deposits made by individuals and legal entities other than financial institutions for at least 90 days, in Venezuelan banks, is also exempt.199

The Income Tax Bureau has ruled that the contribution of know-how generated abroad by a nonresident company, to the capital of a Venezuelan entity is a sale of such know-how within Venezuela and, therefore, subject to Venezuelan income tax. According to the ruling, the transfer of the know-how in exchange for shares of the local company constitutes an economic activity carried on within Venezuela and, therefore, is subject to the tax under Art. 1 of the Income Tax Law.200 The Income Tax Bureau has also ruled on taxation of medical assistance received by workers. Where workers receive payments or credits for medical purposes, the amounts thus paid or credited are remuneration for services and therefore subject to income tax to be withheld at the source. Where such
assistance is rendered directly and the cost attributable to each worker is estimated, the resulting value is not to be treated as income of the worker. Thus, no tax is to be withheld. According to another ruling of the Income Tax Bureau, fixed per diem allowances paid to nonresident employees during their stay in Venezuela are to be treated as salary and are subject to withholding of tax at the source.

The last development in the Tax Policy Area refers to withholding of tax at the source. Under a decree of August 27, salaries, wages, fees, expense accounts, allowances, pensions and similar income not including per diem allowances received by or credited to individuals were subject to withholding at rates set forth in an accompanying table. Withholding agents were required to issue monthly and annual statements to recipients of income amounting to Bs. 3,000 and over monthly. Tariff “C” rates were to be applied where monthly remunerations exceeded in the aggregate, Bs. 120,000. This decree has been repealed. In its stead, a new decree provides withholding tables applicable to monthly income. Withholding agents are required to issue monthly and annual statements to recipients of income amounting to Bs. 3,000 and over monthly. Tariff “C” rates are to be applied where monthly remunerations accumulated for the taxable year involved exceed Bs. 300,000.

Income tax exemptions have also been used in some of the programs and activities for promoting Economic Development, Area No. 2. From September 5, 1974, income originating in promotion sale, lease or financing of low-cost housing and schools has been entitled to income tax exemption in the conditions set forth in two new decrees. Total exemption is granted to gains from the sale of new buildings; to interest from loans to finance their construction, depending on the unit value; for ten years, to rentals from such buildings. Interest will be exempt only 50% if the unit price is more than Bs. 100,000 but less than Bs. 130,000; no exemption is allowed over the latter amount. The duration of the exemption ranges from eight years for loans up to twelve year-terms, to a period equal to the term of the loan if the latter exceeds fifteen years. Promoters and developers of low-cost housing are also exempt. The exemption for school buildings applies to interest from loans for over 10 year-term and for financing of school supplies.

Exercising the authority granted it by the Tourist Promotion Law, the Executive Branch has declared the litoral of the capital and the peninsula of Paraguana to be areas of tourist interest.
International airlines have been allowed to import free from import duties, surcharges and customs fees, equipment and replacement parts.206

In the Tax Administration Area, exercising the authority granted it by the Income Tax Law, the Executive Branch has issued regulations governing the payment of estimated tax by legal entities engaged in mining, oil and related activities. Only 90% of the estimated tax is to be paid. Gross income from exports is to be determined by multiplying the volume projected for exporting during the current year and approved by the Ministry, by the values fixed by the Executive Branch. The estimated tax is payable in twelve equal monthly installments.207

Nonresidents visiting Venezuela on business are required to obtain a "transient visa" rather than a "tourist visa" and to file a tax clearance certificate upon leaving the country. According to the Income Tax Bureau, visitors under a tourist visa are not allowed to engage in any activity for profit or entitling them to remuneration, such as visits for the purpose of discussing business with clients. Consequently, the nonresident is required to obtain a sailing permit which will be granted if he or she has filed a tax return and paid the income tax for earnings or profits attributable to the activity carried on during the visit.208

To close this tax law review for 1974, an important event falling under Area No. 6 is to be noted, which also closes an era of foreign investment in Venezuelan iron ore deposits—the termination of iron ore concessions as of December 31, 1974. It was decreed that all properties related thereto are to be transferred to the government. Compensation for the undepreciated book value of such property will be paid in quarterly notes payable over a 10-year period. The notes will yield interest not in excess of 7% after payment of the income tax. Concessionaires are required to deposit in the Central Bank of Venezuela the sums necessary to pay the maximum severance indemnities to which their workers were entitled as of December 31, 1974. The Central Bank is to have custody of the monies deposited until it is decided how the social benefits are to be paid to each worker pursuant to Art. 37 and 39 of the Labor Law.209

Also by December 31, 1974, the last chance to register existing foreign investments and contracts was closed. The Executive Branch extended the deadline for registering the foreign investments in existence within the country as of December 31, 1973, and contracts for the importation of technology entered into prior to April 29, 1974, to December 30, 1974.210
NOTES

1 Decree 2126 (1974).
2 Decree 581 (1974).
3 Decision B-1341 of July 13, 1972, Tax Court, in re Deltec Argentina S.A.F. y M.
4 Decree 929 (1974).
6 Decision of April 20, 1974, Supreme Court of Justice in re Ford Motor Argentina, S.A.
7 Decree 590 (1974).
9 Decree 893 (1974).
11 Decrees 211, 577 and 70 (1974).
16 Decree 2161 (1974).
18 Decree 1388 (1974).
19 Supreme Decree (SD) 11753 (1974).
20 SD 11471 (1974).
21 SD 11512 (1974).
22 SD 11629 (1974).
24 SD 11480 and 11478 (1974).
26 SD 11774 (1974).
27 SDs 11835, 11836 and 11837 (1974).
28 SD 11450 (1974).
29 SD 11550 (1974).
30 SD 11751 (1974).
36Decree 74966 (1974).
45DL 1356, 1355 and 1345 (1974).
50Decree 1845 (1974).
53SD 1306 (1974).
54DL 600 (1974).
60DL 728 (1974).
64LD 2348 (1974).
65Decree 2413 (1974).
66Circular 02 of September 10, 1974, National Taxes Bureau.
70LD 2368 (1974).
71Decree 2310 (1974).
72Decrees 1244 and 1245 (1974).
73Decision of October 2, 1974, Council of State in re Cayetano Betancourt.
74Decision of June 14, 1974, Council of State in re SOFASA.
75LDs 2374 and 2366 (1974), and Decree 1300 (1974).
76LD 2272 (1974).
78Decree 1418 (1974).
79Decrees 1144 and 1143 (1974).
81Decree 2373 (1974).
82Decree 1531 (1974).
83Decree 1369 (1974).
84Decision of July 18, 1974, Council of State in re James W. F. Raisbeck.
85Decree 1098 (1974).
86Decrees 1368 and 1487 (1974).
88Bill 5891 (1974).
95Law 591 (1973).
96Law 599 (1973).
100SDs 664 and 1056 (1974).
101SD 745 (1974).
102SD 775 (1974).
103SD 794 (1974).
104SD 1236 (1974).
105SD 759 (1974).
106SD 1143 (1974).
107SD 887 (1974).
110LDs 122 and 123 (1974).
113Executive Order (EO) 762 (1974).
117Order 154 of November 30, 1974, Ministry of the Economy.
121LD 84-74 (1974).
122EO of November 21, 1974.
123Order 153 of November 30, 1974, Ministry of the Economy.
125EO 300 (1974).
126LD 143 (1974).
130LD of October 7, 1974.
132Supra, note 131.
133Supra, note 131.
135Executive Decrees of July 31, October 31, December 3 and 11, 1974.
136Supra, note 131.
138General Declarations of August 5, 1974.
139Executive Decrees of November 16 and 19, 1974.

LD of December 21, 1974.


Law 74 (1974).

Law 95 (1974).


Decree 95 (1974).


Decision of July 29, 1974, Supreme Court of Justice in re FARMA S.A.


Decree 5928 (1974).

Revenue Ruling 875 of September 14, 1974.


Decree 7946 (1974).

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Decree 10702 (1974).

Decree 6603 (1974).

Decree 6454 (1974).


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179SD 014-74-TR (1974).
184Supra, note 183.
185Decree 791 (1974).
188Decree 491 (1974).
196Decree 249 (1974).
204Decrees 346 and 347, (1974).
207Decree 331 (1974).