Taxation

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

This study reviews the tax developments in eighteen countries of Latin America during the first 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

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The developments described in this article have been compiled with the assistance of Miss Carmela Savoca.
In the Tax Policy area, legislation has been enacted continuing prior years' policy on promotion of the securities market. Individuals and legal entities may reduce, by the percentages specified therein, their federal income tax for the taxable years 1974, 1975 and 1976, if these funds are invested in securities and mutual funds eligible under the statute. The tax credit granted to corporations may not exceed, for 1974, 3% of their tax liability, nor 10% of their capital and accumulated profits, including amounts resulting from the revaluation of fixed assets; neither is the credit allowed for amounts which exceed 2% of the capital of the company issuing the securities acquired with tax monies. The tax on the sale of securities has been repealed.¹

Prizes from lotteries, drawings and sweepstakes, but not from authorized casino gambling and race tracks, are subject to a special tax, rather than to the income tax. The new levy applies at a 30% rate on prizes which are available to the winner on or after January 1, 1974, and at a 25% rate, on those available after December 31, 1974. The new tax applies on the net value of the prize. Such net value is deemed to be 90% of the gross prize less deductions provided for under the rules of the contest. Prizes whose net value as so determined does not exceed 5,000 pesos, as adjusted pursuant to the cost-of-living index, are exempt.²

Consistent with earlier holdings, the Supreme Court has ruled that the interest charged to importers as compensation for deferred payment of the selling price is income from Argentinian sources subject to "second category tax." However, the Court passed on two ancillary issues not considered by it in its earlier holdings namely, 1) whether the 50% deduction allowed for interest from foreign loans applied, and 2) whether the amount of taxable interest was to be grossed up by the amount of withholding tax absorbed by the importer. The Court decided the first issue in the negative and the second in the affirmative.³

In another decision, the Supreme Court reversed the decision of the Court of Appeals in a case where the issue at stake concerned interest charged by the parent company to a subsidiary importer. The taxpayer claimed a refund for tax withheld on the interest paid to the parent company, on the ground that the interest was part of the selling price. The Court stated that in an earlier decision it had held that interest on deferred payments was not part of the selling price of imports but rather interest on capital used economically within Argentina, and, therefore
subject to the tax. But in the case at bar, where the recipient owed 99% of the borrower, the payment was in the nature of a distribution of profits rather than interest. Consequently the tax rate applicable was that levied on profits, and the payor was not allowed to deduct the payments.\textsuperscript{4}

Under amendments made in the Excise Tax Law, cigarettes will be taxed at different rates depending on the percentage of dark tobacco contained by them. Other amendments authorize the Executive Branch to levy a surtax of up to 11 cents on each liter of wine.\textsuperscript{5}

The excise tax on sales of gasoline has been extended until August 10, 1979. It applies at the rate of .09 peso per litre.\textsuperscript{6}

The Tax Court, in a decision currently on appeal, has found fraud where a certain transaction not eligible for tax benefits because one party was a foreign company, was entered on the books so as to make it appear so eligible. Although the accounting records were in order, the Court found that the recorded transaction was a sham designed to obtain a tax benefit.\textsuperscript{7}

In Area No. 2 the Industrial Promotion Law has been implemented by two important decrees—not one setting forth guidelines to be followed in the special decrees granting the benefits of the law, another one establishing a system for regional promotion. The first decree deals with the participation of the state in the equity of certain enterprises, issuance of “certificates of industrial promotion,” gradual reduction of tax benefits over a period no longer than 10 years from the start-up of operations, discretionary power of the authority charged with granting the benefits of the law, applicability of the 50% tax on new investments near Buenos Aires City, and various other matters. The second decree establishes two priority zones. The “first priority zone” includes certain provinces and departments of Mendoza, Córdoba and Santa Fe provinces. The “second priority zone” includes other departments of said provinces and certain departments of Buenos Aires province. San Juan and Tucumán Provinces and border zones remain governed by existing special regulations.\textsuperscript{8}

The petrochemical and steel industries have been regulated, including qualification requirements for receiving tax benefits under the Industrial Promotion Law. State participation in the enterprise and tax incentives depend upon the product manufactured by the enterprise. Such products are grouped in three categories for each industry. The tax incentives consist of deferment of income and net worth taxes from ten to seven years depending upon the category of the product manufactured by the enter-
Deferred taxes are payable in ten annual installments without interest. Suppliers of petrochemical and steel enterprises may also defer the payment of taxes.9

Cellulose and lumber manufacturing have been declared first priority industries under the Industrial Promotion Law. Accordingly, new companies established no later than December 31, 1977 will enjoy the following tax benefits: 25% to 100% income tax exemption during the first five years of operations, followed by deferral of the tax for the two subsequent years; deferral of sales tax for up to ten years; and total exemption from stamp tax on incorporation and issuance of stock for up to ten years. Investors in eligible enterprises are allowed to either deduct from taxable income up to 75% of the funds invested or to defer for six years the payments of income tax. Investors forfeit the tax benefit if they transfer or sell the shares within three years from the beginning of operations.10

In Area No. 4, several provisions relating to employees under 18 years, contained in the Social Security Law have been amended making contributions attributable to such employees no longer compulsory.11 Under another development related to this social security area, employers are required to pay a prenatal allowance to pregnant female workers or to male workers whose wives becomes pregnant. The amount of the prenatal allowance is equivalent to the allowance for children and is payable monthly during the nine months preceding birth.12

Tightened administration of tax evasion is the most important development in the Tax Administration Area. The Income Tax Bureau's powers for investigating tax omissions and evasions and for assessing penalties have been vested in a new agency under the Ministry of Economy, designated National Bureau of Federal Fiscal Police. Tax evasion is subject to imprisonment from one to six years and other penalties imposed by special legislation recently enacted. Failure to pay to the Treasury taxes withheld is treated as tax evasion. A person convicted of tax evasion will be barred from engaging in commerce, from managing companies or, if such person holds a college degree, from practicing his profession for twice the time of the imprisonment to which he or she has been sentenced.13

Finally, in Area No. 6, two Special Situations are relevant; one relating to financial institutions, the other to the issuance of tax-free external bonds.
Thus, the law regulating the activities of financial institutions has been amended with respect to foreign ownership and computation of gross revenue for tax purposes. The amendments set forth the conditions to be met by foreign commercial or investment banks, among which is the permanent importation of the capital assigned to the local operation. Foreign entities are those owned, controlled or managed 20% or more by nonresident aliens. In computing taxes levied on gross receipts, the tax base shall be the difference between the interest received and the interest paid to the Central Bank for advances on re-discounts.14

As mentioned above, the Executive Branch ordered the Central Bank to issue as of May 15, 1974, bearer securities designated “External Bonds” 1974, redeemable within five years, in U.S. dollars. The bonds, as well as the interest therefrom are free from all taxes. They will not be traded in securities exchanges, and may be freely transferred abroad or returned to the country. Among the avowed purposes of issuing such bonds is the meeting of foreign obligations; thus they are a vehicle for foreign investors to repatriate capital and to receive remittances from investments. Argentine domiciliaries are not precluded from holding the bonds, inasmuch as they are issued to the order of bearer.15

BOLIVIA

Numerous Fiscal Policy developments took place in Bolivia at the outset of 1974.

With respect to the Income Tax Law which was to take effect from January 1, 1974, it was decreed that, until regulations are issued, withholding of tax at the source on salaries, and payment of the tax on interest and on real property rentals is to be made according to the old laws. Income of the self-employed and that of nonresidents is to be governed by the new laws. Business profits for the calendar year 1973 are controlled by the old law, while business profits for the calendar year 1974 are subject to the new law on Tax on Income of Enterprises and forthcoming regulations thereunder.16

With respect to mineral exports, the tax on the official values of minerals exported has been amended. Exported minerals which are not expressly listed in the original statute will be subject to tax at a 1.5% rate. The tax payable by small mining enterprises and cooperatives has been revised to take into account the high prices of tin, lead, silver, zinc and
copper in the international market.\textsuperscript{17} Also the scale of royalties levied on exports of tin has been amended where prices exceed the top limit, in which case the royalty will be 38\% on the margin of imputed taxable income computed in the manner prescribed by law for other minerals. The royalty is paid in lieu of export duties and income taxes.\textsuperscript{18} Soon thereafter, the royalty tax was overhauled, omitting in the new decree the reference to the taxes substituted by the royalty. Under the new law, all minerals exported or sold to domestic refineries are subject to a new scale of royalties. The royalty is to be computed on the refined content of the net dry weight and is based on the international quotation of each metal. Where international prices exceed the top limit of the scale, the royalty is fixed as a percentage of the difference between the actual price and the price at which the scale allows a transaction to be exempt. If production is increased as set forth in the statute, the royalty, as well as the tax levied on the basis of the official value of exported minerals, are reduced by 50\%.\textsuperscript{19}

Effective January 1, 1974, a new tax on imports and sales, of certain goods regarded as luxury items previously subject to the 5\% general rate, has been created. The tax rate is 10\%, 15\% or 20\% of such transactions, depending upon the product. Three schedules annexed to the law list the products subject to the new tax at the specified rate. Although the schedules have not been published, presumably they list goods regarded as luxury items under an earlier law. Such goods had been subject to a special 10\% rate until June 1, 1971, when such rate was eliminated, thus making applicable to them the general 5\% rate. The tax is imposed on the import of products when released from customs or, in the case of sales of domestic products by manufacturers or producers, when the invoice is issued, when the product is withdrawn for use or consumption, on the date of issuance of the document transferring the product, or on the date of loss, whichever is applicable. The law also establishes the exemptions, tax base, taxpayer's list and method of payment of the tax.\textsuperscript{20}

A 3\% annual tax, to be paid by borrowers, is levied on loans granted to the following business sectors: industry, construction, mining, crafts, farming and cattle raising, export financing, housing and imports of food products. Banking institutions are to withhold the tax and will have control over the application of the tax, effective October 26, 1973. Loans granted by the Industrial, Agricultural and Mining Banks within their corporate authority are exempted from the tax. Prior to this tax, a 9\% annual tax on commercial and private loans was in effect since 1969.\textsuperscript{21}
New rates apply to domestic cigarettes made of dark tobacco. The rate is 41% of the factory price for cigarettes without filter and 65% for those with filter.\textsuperscript{22}

Retail prices of sugar and rice have been fixed commensurate with prices in the international markets. A new tax equivalent to 100% of the difference between such retail price and the wholesale price of domestic sugar and rice, plus marketing expenses and freight charges has been imposed from January 20, 1974.\textsuperscript{23}

Under Area No. 2, an import duty break for industry was enacted. Manufacturing industries will enjoy special reductions on import duties levied on raw materials and equipment replacement parts. The reductions range from 80% to 20%, and will be gradually eliminated by June 30, 1975.\textsuperscript{24}

An inflation generated measure can be reported within Area No. 3. To minimize the impact of the high cost of basic staples in the international market as well as to discourage smuggling of said staples, from January 1, 1974 workers have received an additional fixed tax-free bonus equivalent to 400 pesos per month or 13.33 pesos per day. Those receiving pensions enjoy 50% of said bonus.\textsuperscript{25}

A Special Situation to be noted under Area No. 6 is that the Bolivian Government has approved the Additional Instrument to the Cartagena Agreement dealing with the accession of Venezuela to the Andean Pact.\textsuperscript{26}

BRAZIL

Few changes are to be observed in the Fiscal Policy Area. Detailed instructions under the rules on computation and capitalization of the monetary adjustment of the book value of fixed assets which became effective on January 1, 1974, have been issued by the Secretary of Federal Revenue. Among the new instructions is one which limits the adjustment of depreciation accounts to 100% of the adjusted value of the assets. Another fixes the procedure for accumulating each year's adjustment, which is now to be made on a yearly basis for each asset or group of assets acquired in the same year.\textsuperscript{27}

Furthermore, the new rules on monetary adjustment are not applicable to electric power concessionaires.\textsuperscript{28} These companies enjoy special tax treatment. Likewise, beginning with the taxable year 1973, up to and including the 1978 taxable year, holders of concessions for public services
of telecommunications will pay income tax at a 6% rate. During such period, no incentive tax credit will be allowed. Holders of public service concessions have been subject heretofore to normal income tax at a 12% rate.

Another change in the Fiscal Policy Area relates to corporate mergers. Expenses incurred in the merger or consolidation of companies may be carried forward for up to six years, pursuant to a new statute. Special rules govern if one of the parties to the transaction is a financial institution. If a financial institution is involved, the National Monetary Council may grant income tax exemption for the revaluation of assets resulting from the merger or consolidation. The new rules may be applied retroactively, but in no case will entitle taxpayers to the refund of the income tax paid.

Other changes under Area No. 1 relate to import duties. From June 27, 1974 through December 31, 1975 ad valorem duties will apply at the rates fixed in a new tariff. Products subject to duties in accordance with LAFTA country agreements or with the General Agreement for Tariffs and Trade (GATT) are excluded. On the other hand, several decrees have implemented Protocols to agreements with LAFTA countries. The concessions under the national list of Brazil have been extended and revised beginning January 1, 1974. Other decrees deal with concessions applicable to dyes and pigments and to petrochemicals.

Continuing the promotion of certain regions through fiscal incentives the 10-year income tax exemptions granted to new enterprises which locate in the Northeast region under the jurisdiction of SUDENE and in the Amazon region under the jurisdiction of SUDAM have been extended from December 31, 1974 to December 31, 1978. Likewise the exemption from import duty on capital assets enjoyed by manufacturers of exported industrialized products has been extended until December 31, 1977. The benefit is based on the increase of current year exports over the exports of the preceding year.

Furthermore, new rules have been passed with respect to all fiscal incentives. Funds from income tax credits earmarked for investment in promoted areas or programs are to be applied to specific projects within the time limits set forth by a new law. The same statute has revised the percentages of payable income tax which can be applied to forestation and reforestation outside the Amazon and Northeast regions. It has also limited the percentage of tax funds which may be allocated to forestry

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. The coefficient for taxes payable in 1974 has been fixed at 1.12, as heralded in our 1973 Tax Law Update. This coefficient notwithstanding, cruzeiro values for the withholding of income tax at source are to be adjusted in computing taxes to be withheld in 1974, by increasing them 16%. The monthly deduction for each dependent has been increased by 12%, from 258.30 to 289.20 cruzeiros.

Two situations involving international tax treaties are worth reporting in Area No. 6. The treaty with Finland to avoid double taxation and prevent tax evasion has been promulgated and implemented by regulations. Pursuant to its Art. 28, the Treaty became effective on December 22, 1973. Art. 23 provides that double taxation will be avoided through tax credits. The exchange of taxpayer information is contemplated in Art. 26. The regulations prescribe the tax treatment of royalties, fees, interest and other income items derived by residents of Finland, from Brazil, from January 1, 1974. Likewise, regulations implementing the tax treaty with Belgium have been issued. They prescribe the tax treatment of royalties, fees, interest and other income items derived by Belgian residents or domiciliaries on or after January 1, 1974 from Brazilian sources.

CHILE

Much activity is to be observed in Area No. 1. Several provisions of the Income Tax Law and of the Tax Code have been revised by new legislation. The provisions relate to taxation of individuals employed in rural work, to computation of estimated tax by partners or sole proprietors, and to liquidation of the tax on capital gains. Meals and lodging provided for the convenience of the employer to rural workers will be exempt. To this effect, Art. 17 of the Income Tax Law has been amended. Also amended have been Art. 36, 37 and 85, with regard to computation of taxable income of such workers. To Art. 50 and 54 of the same law
and 56 and 64 of the Tax Code provisions relating to the computation of capital gains were added. The same statute curtailed exemptions from the sales tax. Thus, pursuant to amendments made to the Sales Tax Law, foodstuffs and services which were otherwise exempt became subject to tax at 5%, 10% or 20% rates, depending on the nature of the business in which they are sold or rendered. Foodstuffs and other exempt goods sold, and services rendered in nightclubs, discotheques or the like, those sold or rendered in first class hotels, social clubs or the like, and those sold or rendered in other than first class hotels, social clubs, restaurants, etc., became subject to 20%, 10% and 5% tax, respectively. Soon after the enactment of these amendments, important changes have been made in almost every provision of the Sales Tax Law with a view to facilitating the administration of the levy and compliance by taxpayers. Most of the rates have been reduced, except for the tax on luxury items, which has been upped from 25% to 50%. Certain basic foodstuffs have been exempted from sales tax. The tax on sales of foreign exchange was also reduced. Exercising the authority granted it by law, the Executive Branch reduced the rate of a tax on sales of foreign exchange in the brokers' market from 50% to 10%. The 3% and 1.5 per thousand levies on such sales remain in force. The reduction entered into effect on March 21, 1974.

Substantial reforms on taxation of real property and of gains from real property sales became effective on January 1, 1974. Appraisals of rural land in force as of December 31, 1973 are to be adjusted upwards by 2,900% and urban lots by 900%. The 10% surcharge imposed on real property tax has been repealed. Gains from sales of real property, including realty used in business, effected on or after January 30, 1974 but no later than December 31, 1974 will be exempt from the tax on capital gains. Depending upon the appraised value, urban property may be exempt in the amount of from 25 to 100%. Under a new decree-law, the net worth tax payable in 1974 has been revised and, effective January 1, 1975, the tax is repealed. Nonresidents, whether individuals or legal entities, are subject to a one-time tax on the value of the stock of Chilean companies owned by them as of December 31, 1973. The tax ranges from 2% to 14% depending on the value of the shares, assessed in the manner prescribed in the new law.

The tax on royalties received by nonresidents has been the subject of two decrees. Exercising the authority granted it by the Income Tax Law, the Executive Branch has increased the 40% tax rate on certain royalties and technical assistance fees derived by nonresidents. For one year be-
ginning January 1, 1974, a 50% rate applies to such income items if connected with printing, clothing and furniture-manufacturing industries, a 60% rate if connected with the production of cosmetics, perfumes and toiletries. On the other hand, certain fees and royalties received by non-residents during 1974 will be entitled to a 20% deduction for purposes of the "additional" income tax to be withheld thereon. The benefit applies to fees and royalties related to the extraction and refining of oil, and to copyrights on books and magazines.47

Revised stamp tax rates became effective on January 30, 1974. They reflect a reduction in the tax levied on papers filed in judicial proceedings, as well as a 528.4% upwards adjustment of the fixed rates prevailing in 1973.48

Another law effecting tax policy changes was enacted. It revises the excise tax on gasoline, establishes a new departure tax on travelers and raises from 5 to 24% the rate of the single tax on sales of motor vehicles imported duty-free. The new departure tax applies at the rate of the national currency equivalent of 4 U.S. dollars in the brokers' market, per passenger leaving the country from any airport.49

Also, the progressive rate applicable to earned income in the higher brackets has been revised upwards. Under the present amendments, the rates are increased from 50 to 55%; from 55 to 65%; from 60 to 70%; and from 65 to 80%. The increase applies to income derived between March 1, and December 31, 1974.50

Other developments under Area No. 1 concern the tax on revaluation of assets. The rates of the tax levied on revaluation of assets have been reduced from 10% to 5% for fixed assets and from 20% to 10% for inventory and raw materials. The amount of this tax is not deductible for income tax and housing tax purposes.51 Amounts resulting from the revaluation of fixed assets must be capitalized. Therefore, they may not be distributed to company owners or shareholders except as a stock dividend. The foregoing rule is one of the many changes on revaluation of fixed assets and inventories which entered into effect on January 30, 1974.52

Numerous changes have been made with respect to import duties. The special 10% ad valorem duty and the taxes levied on the first sale of automobiles, station wagons and certain appliances, have been extended until December 31, 1974.53 The highlight in this area is the enactment
of a new tariff. In compliance with commitments undertaken in the Agreement for Subregional Integration (Andean Pact), Chile has adopted a new import duty based on the Brussels Nomenclature for Goods. The new tariff became effective on January 1, 1974. In addition, a single tax computed in foreign currency will apply on the CIF value of imports listed in a new Decree-Law. The new duty replaces all other taxes collected by Customs and applies notwithstanding any general exemption enjoyed by the importer. Among the products listed in the new decree are motor vehicles, machines, precision equipment, electric tools and replacement parts for industrial, aircraft, medical, mining and farming equipment. The tax rate ranges from 1% to 260% of the CIF value of the products, which must be new. Lastly, the concessions to LAFTA countries under the National List of Chile have been extended and revised effective January 1, 1974. Certain products were eliminated from the National List and others were substituted. Changes affected likewise, the Special Lists for Bolivia, Ecuador, Paraguay and Uruguay.

Two measures aiming at the promotion of economic development have been extended. Various tax incentives such as import and export duty exemption, for enterprises located in Pisagua, Chañaral, Iquique, Taltal, Tocopilla and other Departments whose development is favored have been extended until January 1, 1976, and tax incentives available to fishing enterprises have been extended for the period beginning January 1, 1974 and ending December 31, 1976. New enterprises may be granted such benefits up to December 31, 1974.

Chile has been so plagued by inflation, that periodic adjustments 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, were necessary.

The amount of 10,170 escudos a month was established as the new vital salary from January 1, 1974, for purposes of determining payment of alimony decreed by courts, payment of fines based on vital salary, and payment of taxes. Up to December 31, 1973, the vital salary was 6,700 escudos per month.

Beginning May 1, 1974 all wages, salaries and pensions were increased by 30%, including the “vital minimum salary” fixed for each Department of the country. Nevertheless, the vital minimum salary per month on which the tax on earned income is based, is fixed at 18,000 escudos. Remunerations consisting of commissions or percentages will be
subject to a new tax on the portion exceeding 25 minimum vital salaries per month. The new Decree-Law ordered the Mixed Central Commission for Salaries to release a list of the "minimum vital salaries" for each Department adjusted upwards by 30%. Accordingly, the minimum vital salary for the Department of Santiago would be, rounded off, 13,200 escudos (130% of 10,170). Commissions exceeding 25 minimum vital salaries of the Department of Santiago will be taxed 25% on such excess. The portion exceeding 35 minimum vital salaries, will be taxed 35% on such excess. This tax is designated "contribution to the National Reconstruction Fund" and will be deducted in computing income tax and social security contributions.60

Beginning July 1, 1974 all wages, salaries and pensions were increased by 20%, including the "minimum vital salary" fixed for each Department of the country. The "minimum vital salary" for the Department of Santiago has been fixed at 15,000 escudos. Nevertheless, the "minimum vital salary" per month on which the tax on earned income is based, is fixed at 21,600 escudos. The minimum wages per month for full-time workers are 39,000 escudos, and the minimum retirement pension, 28,000 escudos. The new Decree-Law has ordered the Mixed Central Commission for salaries to release a list of the "minimum vital salaries" for each Department of the country adjusted upwards by 20%.61

In Area No. 4, an important measure was taken. As a first step towards the overhaul of the social security system, a single family allowance system was put in operation from January 1, 1974. All active and retired employees, if they have dependents, are covered. To finance the program, all employers, including those now carrying their own program for family benefits, must make a contribution to the pension fund of the Social Security Service equivalent to 1.7% of the payroll. Current contributions related to family protection have been repealed. The family allowance for the calendar year 1974 is 1,000 escudos per month. This amount is not treated as remuneration and is free from all taxes, fees and contributions.62

Within Area No. 5 some significant changes are worth noting. Several provisions of the Tax Code have been amended by a new law. The new amendments relate to collection of the tax, filing of returns, and taxpayers' remedies,63 and numerous provisions of the Customs Ordinance have been amended. The amendments relate to administrations of customs duties, jurisdiction of Customs Courts, authority to decide on taxpayers' claims and appeals, and assessment of fines.64
Area No. 6 features two interesting Special Situations: 1) new rules on registration of foreign capital, and 2) encouragement for the repatriation of Chilean capital.

Registration of foreign capital is governed by new rules regarding repatriation thereof and remittances therefrom. The new rules apply to capital imported after February 21, 1974. Capital imported prior to that date may elect to be governed by the rules in force at the time of importation by being reregistered with the Central Bank within 180 days from February 21, 1974; otherwise the new rules will apply. The Central Bank will issue registered, non-transferable certificates for foreign capital brought in by individuals or legal entities, whether nationals or foreigners.65

Under amendments made in the amnesty law, Chilean capital returned to the country in foreign exchange will be exempt from the 25% tax on unreported income, but 50% of such capital must remain deposited in the Central Bank for at least 6 months. Importers may utilize the deposit to pay for their imports, which, in that case, will be subject to a special single tax to be fixed by the Ministry of the Treasury and payable in foreign currency.66

COLOMBIA

Several tax changes were enacted in 1973 within the Tax Policy Area. The recently-enacted tax on minimum imputed income from land, has been implemented by regulations effective January 30, 1974. They provide rules for, among other things, allocating value of land used for growing crops and for grazing. Investments eligible for the tax-free reinvestment of profits are to be determined by decree every year before December 31. Personal exemptions and investments in farming or cattle-raising enterprises are deductible from the minimum imputed income. Income from land for the taxable year 1973 will be reported and subject to tax under the normal rules of the General Income Tax Law.67

Regarding the withholding tax on nonresident’s income, a ruling of the Income Tax Bureau requiring the payment of an additional 8% withholding tax on income items credited or remitted to nonresidents between January 1 and April 1, 1973, that is prior to the increase of the rate from 12 to 20%, has been temporarily suspended. The withholding tax on dividends, net branch profits, interest, royalties, rents and other income items derived by nonresidents was raised April 2, 1973, and be-
came effective on that date, but was applicable "from the taxable year 1973." On the ground that the income tax applies to a whole-year period, the Bureau issued the ruling now suspended. The Council of State declared that the withholding tax applied on each payment independently of other payments to the same recipients during the rest of the year.68

There are new rules on contributions to pension funds. The basis for computing the deductible reserve for private pension funds to provide for certain retirement and disability pensions have been changed. Allowances for the formation of the fund are deductible for income tax purposes, as well as those pensions actually paid and not charged against the fund. The deduction must be authorized by the tax authorities.69

Another area of interest is the deductibility of foreign exchange losses. Losses incurred in the cancellation of foreign loans obtained for use as working capital have been held to be non-deductible capital losses. A dissenting opinion regards such foreign losses as deductible casualty losses. The case at bar related to an assessment for the 1964 taxable year, that is prior to the elimination of the foreign exchange free market by decree 1967. The Court alleged that the deductibility of foreign exchange losses is only allowed for loans used in acquiring capital assets or making identifiable expenditures, pursuant to Art. 46 and 160 of the Income Tax Regulations. The dissent found that the devaluation of the Colombian currency was a case of "force majeure" which gave rise to a casualty loss contemplated by the expression "et cetera" used in Art. 104 of the same decree, after mentioning fire, destruction, embezzlement and the like.70

The Executive Branch has been vested with extraordinary powers for six months to create taxes on the production of raw platinum and emeralds, and to revise the existing tax on gold. The President has also been authorized to reallocate revenue from existing and authorized taxes among the Departments and Municipalities where deposits are located.71

Effective January 1, 1974, important import duty concessions have been granted to products originating in Bolivia, Chile, Ecuador and Peru, pursuant to the Andean Agreement for Subregional Integration and Decision 52 of the Cartagena Convention Commission.72

A new decree has amended the existing tax on customs. The Customs Tariff issued pursuant to the obligation undertaken vis-à-vis countries which are members of the Cartagena Agreement, has been amended in regard to several items on the list of products.73 Also, substantial tariff
reductions have been passed to offset the rise in the cost of Colombian products caused by high international prices. The new duties entered into effect on March 28, 1974. The Executive Branch has been vested with powers to amend the tariff as required for the regulation of the economy.74

By decree, treasure-troves have been assimilated to gifts, prizes and inheritances and, therefore, regarded as exempt income so long as they are subject to special taxes. The State's share in 25% of the gross proceeds from treasures found in the nation's seas or continental shelf is such a special tax. According to the new decree, such a special tax has been imposed on treasure-troves regulating the activities of searchers of treasures in Colombian waters.75

Within Area No. 2, there was special treatment granted to certain foreign investments. Implementing the Rules on Foreign Investments adopted by Colombia, the Executive Branch has issued important decrees excluding certain activities from the Rules. Under the first, foreign commercial banks and financial institutions other than insurance companies, as well as enterprises engaged in domestic wholesale or retail trade, may operate within Colombia and also may remit profits according to special limits above 14% general limitation. The second states that foreign oil, mining and forestry enterprises are not subject to concession restrictions and may remit profits as the National Council for Economic Policy may fix, irrespective of the 14% general limitation. This decree incurs in the error of treating banking and trading as basic industries, and implying that they may remit profits as the National Council for Economic Policy may fix.76 Implementing the special rules applicable to foreign investment in commercial banks and financial institutions, the third decree sets forth the procedure to invest in such entities which already exist.77

With regard to tax incentives, a decree restating the tax incentives granted savings to finance housing has been issued. The decree emphasizes that the revaluation of capital so lent or invested is not treated as income of the lender or investor, while the borrower is allowed a deduction for the increased value. Its provisions apply to the taxable year 1973 and thereafter. The purchasing power of principal invested or loaned is protected against inflation by periodic revaluations. The amount deducted by the borrower may not be added to the cost of the property.78

Concerning exporters, a new decree implementing statutory provisions allowing a rebate on exports which include imported raw materials has defined the concept "domestic product" used by the statute. The concept
applies to goods containing raw materials worth no more than 60% of the FOB value of the goods exported. The new decree became effective on April 27, 1974. At the request of the Municipal Council of Cartagena, Cartagena has been declared a commercial and industrial free-zone. Also within the free-zone area, regulations for the operation of Manuel Carvajal Sinisterra Industrial and Commercial Free Zone became effective on February 28, 1974. According to general rules governing free zones, goods and raw materials entering the zone are free from all taxes.

A statute promoting Colombian books through income and sales tax benefits for authors and publishers has been enacted. Under its provisions, an exemption from income and complementary taxes for the first 100,000 pesos per year will be granted to national authors (50,000 pesos if the author is a nonresident), provided that the book is published within the country; 100% of prizes won in open contests will be exempt. Furthermore, legal entities engaged in book publishing and printing, and their owners or shareholders will be exempt from income and complementary taxes for ten years beginning February 1, 1974. The investor's exemption is limited to the first 500,000 pesos invested which are to be excluded in computing net worth tax, and to the first 50,000 pesos derived as dividends or share in profits. Books, magazines and periodicals of a scientific or cultural nature are also exempt from sales tax and export duties.

With respect to Area No. 3, only one significant measure was taken. An important issue on the adjustment of retirement and survivor's pensions has been passed upon by decree. The maximum increase prescribed by law is to be applied to all existing pensions after they have been adjusted under the law which became effective on January 1, 1973, rather than before such adjustment. The new decree construes a law which provided for an increase of pensions payable by private enterprises, as well as for an adjustment thereof every second year. Whether such adjustment applied or not to existing pensions was not clear. Whether the clarification made by that decree is unconstitutional because it may violate the right of employers to treat pensions fixed as of the time they were first granted, is not clear either.

Concerning the Social Security Systems Area, two measures were taken. Under a new law, professional newsmen will be entitled to receive the retirement, old age or disability pensions prescribed by existing legislation upon completing thirty years of continued or discontinued services performed prior to or after the enactment of the new statute.
Employers are to be assessed the amount of the contribution allocable to the period during which the newsmen had been employed by them. Pensions are to be paid in full by either the last employer or the Social Security Institute, as the case may be. The payor will have the right to be reimbursed the amounts assessed on former employers, whether these employers were private or state owned enterprises or governmental agencies. Every second year the pensions paid under the new law are to be adjusted in accordance with the consumer's price index for the preceding 2-year period.\textsuperscript{94}

Effective December 19, 1973, novel changes in the family subsidy system were made by a new law. While the benefit is tax free, contributions by employers are deductible for income tax purposes. That contribution is 6\% of payroll including every remuneration paid in cash or in kind. The subsidy is payable in cash, in kind or in services. Only workers whose salary does not exceed six times the greater minimum salary (minimum salary for 1974 is 900 pesos per month) are eligible. In order to compute the salary received by a worker, any compensation for services is to be included, such as wages, commission, profit sharing, bonuses, overtime, housing allowances, per diem, etc. The maximum salary for eligibility which is now 5,400 pesos per month (900 x 6), was 2,000 pesos prior to the new law. Salaries paid to foreigners in foreign currency must also be included in computing the basis of the 6\% employer contribution. Employers are required to make the payments through regional agencies designated as Family Compensation Funds.\textsuperscript{95}

Tax Administration is the last area of concern within Colombia. The only significant measure involved the filing of returns by nonresident individuals. The Council of State has suspended a Circular of the Superintendency of National Taxes which requires that taxes due by nonresident Colombian nationals be assessed by revenue agents. Such assessment was to take into account information contained in the income tax returns which the Circular assumes the taxpayer is required to file. Such assumption is contrary to numerous decisions of the Council. Therefore, the Circular constitutes contempt of the Council, which is to be prosecuted by the Attorney General. The Circular has been suspended because it attempts to require indirectly the filing of returns, in complete disregard of Council of State holdings to the effect that nonresident persons who are not engaged in permanent business within Colombia are not required to file income tax returns. The last decision in that respect was handed
TAXATION
down on March 18, 1971. The Colombian Tax Law Institute had re-
quested from the Minister of the Treasury to intervene so that the Ad-
ministration issued regulations whereby nonresidents are subject to a
20% withholding tax on gross income in lieu of a progressive rate on
taxable income determined in returns.86

COSTA RICA

Regarding Area No. 1, a new ad valorem export duty has been im-
posed. It shall range from 1% to 18%, except on exports to countries
with which Costa Rica has entered into Free Trade Treaties, in which
case the duty may not exceed 7%. Pursuant to the new law, the Executive
Branch has fixed the duty payable by coffee, beef, sugar and cocoa at
13%, for non-traditional products at 2% and for all other goods at 7%. Re-
venue from the new duty may not exceed 15% of the aggregate value
of all exports as estimated by the Central Bank for the current year.
The new duty became effective on April 27, 1974.87

The Income Tax Regulations have been amended with respect to
the method for accounting for certain expenses and losses connected with
containers. The new rules apply from the fiscal year 1974. Art. 15 of the
Regulations, as now amended, provides that the expense for glass con-
tainers to be returned by the purchasers has to be computed charging
the container account for all bottles actually destroyed or unusable, and
crediting it with the cash deposits received from customers who did not
return the containers.88

A new tax on banana exports has been levied. Each 40-pound box of
banana exported has been subject to a US$1 tax since April 20, 1974.
Where the exporter has purchased the bananas within the country, the
buyer will be liable for the tax, and its burden may not be transferred
to the producers. A portion of the revenue from the new tax is to be
appropriated for distribution to producers. Where bananas are exported
in boxes weighing more or less than 40 pounds, the tax is applied
proportionately. Congress has construed the aforementioned law with
respect to the concept of “buyer” and “producer.” The regulations there-
derunder have been amended with respect to tax treatment of transactions
through jobbers. Buyers liable for the tax are those buying bananas
within Costa Rica or producers who sell their output abroad. Producers
are those growers of bananas who sell them to exporters, even though
the producer may appear on the shipping documents as exporter.89
The Apprenticeship Law has been revised with respect to the wages payable to an apprentice. The amendments became effective on December 19, 1973. The apprenticeship period is to be divided into three stages, and an apprentice will receive 50%, 75%, and 100% of the minimum salary during the first, second and third stages, respectively. Such minimum salary is to be fixed by the National Council for Salaries.

The last development in the Tax Policy Area is the reallocation of goods among various rates of the consolidated selective consumption tax, effected by a new decree, beginning April 6, 1974.

Concerning Area No. 5, Tax Administration, the collection of the excise tax has been amended again. Brewers and soft drink and soda factories who installed counting machines in the production line have been granted heretofore a 1% discount on the tax due. Under a new decree, that percentage may be increased or decreased by the Tax Bureau to the extent necessary to offset actual losses attributable to the counting machines.

Several changes occurred in Area No. 6—Special Situations. The Law regulating the Central Bank has been amended with respect to the surrendering of foreign exchange to the Central Bank. All foreign exchange belonging to individuals or legal entities must be surrendered, except if originating in certain transactions listed by the law; in the latter case the exchange may be traded in a free market. Repatriation of registered foreign investments and remittances of principal and interest of certain loans may be made by acquiring United States dollars at 6.68 colones per dollar. Foreign exchange will be traded in the free market if it originates in allowances of diplomats, expenses incurred by tourists, remittances to residents, insurance indemnities the premium of which was paid with free foreign exchange, unregistered importation of foreign investments without right to make remittances of income therefrom, repatriation of domestic capital, and any other importation of foreign exchange determined by the Central Bank.

A Free Trade Treaty has been signed by Panama and Costa Rica on June 8, 1973 and approved by the latter. The treaty incorporates by reference, with amendments, the lists of products which may be imported or exported duty-free currently in force under an earlier treaty. It also provides for national treatment of products originating in each signatory country with respect to taxes on production, sales, circulation or consumption. With regard to treatment of third-country products, the
TAXATION treaty provides that the benefits granted under the treaty are not to be extended to third countries under the “most favored nation” clause. It also provides that if a tax is levied on products originating from the other signatory, similar products originating in third countries must be taxed at least as much.94

The law creating the workers’ bank was amended, effective November 30, 1973. All workers are required to save through the bank by contributing at least .50% of their monthly remuneration. Employers are to withhold such contribution and in addition contribute to the bank 1% of the monthly payroll. The bank is an independent institution aimed at promoting savings and credit facilities for workers. It may issue bonds the interest of which will be exempt from income tax. The employer contribution is deductible as a business expense for purposes of income tax.95

Lastly, the definition of manufacturers’ representatives contained in the Code of Commerce has been revised. Art. 360 of the Code of Commerce, includes not only those persons who place purchase or sale orders for importers or exporters, but those who promote or facilitate sales of imported goods or services as well.96

DOMINICAN REPUBLIC

An important Tax Policy measure was the income tax exemption for rentals. Rents derived from buildings eligible under a new law will be exempt from income tax for up to 15 years. In order to qualify a building for the exemption, construction must have been begun no later than December 31, 1973 and completed in no longer than 2 years, and the cost must be 1,000,000 Dominican pesos or higher. Buildings erected within the capital of the nation will be exempt for only 10 years, while the 15-year period applies to buildings erected anywhere else in the country.97

Also within the fiscal policy area, power plants imported for commercial or industrial use, and the fuel imported to operate them, have been exempted from any import duty whatsoever. The Secretariats of State for Finances and for Industry and Commerce and the Customs Bureau have been charged with the administration of the new statute.98

Within Area No. 2 only one significant measure was taken regarding the implementation of tourism. Exercising the authority granted it by
the Tourist Law, the Executive Branch has determined the requirements to be met by hotels under each of the four categories established in the law.99

ECUADOR

In the Tax Policy Area, there were substantial revisions of the tax system.

With regard to income taxation of individuals, income derived by individuals on or after January 1, 1974 may be reduced according to provisions of the Income Tax Law, as amended by a new law. The amendments relate to the deduction for dependents and the deduction of expenses for professional services and rent. Pursuant to the amendments, a taxpayer is entitled to deduct up to 5,000 sucres for each child and for the spouse, and up to 3,000 sucres for each parent. To this effect, Art. 52 of the Income Tax Law has been revised. Up to 24,000 sucres per year may be claimed as a deduction for rent, provided the lease and identification of the lessor are produced (presumably upon request of the tax authorities), and the taxpayer does not own a home. Art. 50 of the same law has, thus, been amended.100 In addition, individuals are allowed a special deduction for housing under a new decree amending the Income Tax Law. Another decree has revised the rules on deductibility of entertainment allowances received by government officials and diplomats. Both deductions apply against income derived from January 1, 1974. Pursuant to the amendments, individuals may deduct up to 24,000 sucres per year on account of payments to the Ecuadorian Housing Bank, the Social Security Institute or Mutual Savings and Loans Associations for purchase, repair or building of their residence.101

Another reform relates to the enactment of a new Mining Promotion Law, effective as of January 31, 1974. Hydrocarbons and mineral waters are governed by separate laws. Mines are owned by the state; for their exploration and exploitation, the state may enter into contracts as prescribed in the new statute. Under such contracts the state's share consists of an annual surface tax and production royalties. The latter may not exceed 16% of gross income. Mining contractors are exempt from the tax on working capital and from export duties. No import duty will be levied on mining equipment and machinery not adequately produced within the country. Profits from one contract may not be offset by losses from any other contract. Contractors are withholding agents for pur-
poses of taxes on salaries of workers, as well as for taxes levied on income from Ecuadorian sources derived by nonresidents who have any economic relationship with such contractor. In determining gross income, production costs are to be deducted. Production costs are those necessary to obtain the income.\textsuperscript{102}

New rules for the taxation of income derived by oil companies have been passed by a Decree which took effect on December 14, 1973. Deductible expenses are described in detail and classified as either pre-production expenses, if incurred after the registration of the contract of association (with the Government) and before the date fixed for the commencement of commercial production, and production expenses, if incurred from the latter date on. Taxable income determined in accordance with the income tax law and these new rules is to be subject to tax at a 44\% rate, which includes additional income taxes. Oil companies must maintain their books of account in Spanish and on a calendar year basis. Pre-production expenses are to be capitalized and amortized by the unit-of-production method. They do not include expenses incurred in productive wells within areas which have reverted to the State, nor expenses incurred in dry wells. The latter are to be charged to a special account to be amortized in 10 years from the start of the commercial production.\textsuperscript{103}

The taxes on sugar have been revised. Sugar exports have been subject to a 12\% ad valorem tax since January 17, 1974. The tax will not be applied to those sugar companies which increase their capacity pursuant to plans to be submitted to the proper Ministries. Sugar sold in the domestic market will be exempt from the 4\% sales tax. The new tax applies only to exports by enterprises which process more than 2,000 tons of sugar daily. In order to determine the FOB price on which the tax is based, the quotations shown in international sugar exchanges are determinative. Such FOB price is the amount equivalent to the average of such quotations for the month in which the exportation is made. The new law repeals all earlier laws referring to a contribution on sugar exports, and to an excise tax on sugar consumed in the domestic market.\textsuperscript{104}

There is a new tax policy on foreign loans. Beginning March 25, 1974, foreign loans have been subject to a one-time tax ranging from 2\% for loans maturing in up to 12 months, to 6\% for loans maturing in more than 30 months. Certain exceptions are provided for, such as loans maturing in more than 3 years and earmarked for investment in farming or fishing or to finance machinery, equipment and other capital
assets. Borrowers may not claim a deduction for the cost of borrowing unless the loan has been authorized and registered with the Central Bank, upon which registration the new tax is to be paid. The exemption from income tax for interest from foreign loans has been repealed.\textsuperscript{105}

In lieu of all existing levies on domestic loans, a single tax equivalent to 1\% of the loan has been imposed. Among the taxes now merged into the new 1\% is a $\frac{1}{4}$ of 1\% annual tax imposed on bank loans and discounts.\textsuperscript{106}

Pursuant to the Hydrocarbons Law enacted September 27, 1971, rules for determining the value of extractive royalties paid in cash have been passed. Transportation expenses and export taxes are to be deducted from the royalties so determined. The rules apply to oil produced from July 1, 1972. Under the Hydrocarbons Law, extractive royalties ranging between 12.5\% and 16\% of output may be paid in kind or in cash. The value of the oil is to be based on reference prices for the output sold abroad or locally, and on the domestic sales price for the oil consumed by the producer. The Central Bank is to collect the royalty from the proceeds of exports.\textsuperscript{107}

From April 4, 1974, import duties have been applied pursuant to a new tariff, based on the Brussels Nomenclature for Goods. In most cases, ad valorem duties are lower than under the old tariff, with substantial reduction when applied to capital assets, machinery and equipment for manufacturing industries and farming. The duty base is the fair market value of the goods, as defined in the tariff itself. The new tariff replaces the old system of basing import duties on gross weight and relies on the verification of actual value of imports by the newly-created Central Valuation Bureau.\textsuperscript{108}

Lastly, within Area No. 1, beginning January 1, 1974, machinery and supplies used by farmers have been exempt from sales tax. The exemption applies to insecticides, veterinarian products, balanced foods, equipment, tools and other accessory items used exclusively in farming.\textsuperscript{109}

Within Area No. 2, there were additions to Industrial Promotion Laws. In two consecutive Supreme Decrees, new chapters dealing with incentives for regional promotion have been added to the recent law for the Promotion of Handicrafts and Small Industry and to the Industrial Promotion Law. Areas of regional promotion are considered to encompass the whole nation, except the provinces of Guayas, Pichincha and Galapagos. Regardless of his location, any taxpayer may deduct the amounts
contributed to the capital of enterprises located within the promoted regions. Certain promotion areas are created, and industries located in those areas are exempt from all excise taxes, customs duties and other taxes, except taxes on income and commercial transactions. The benefits are available for 3 to 10 years, depending, upon the type of industry.\textsuperscript{110}

Tourism did not escape the overhauling. Under a recently-enacted Tourist Promotion Law, tourism will be developed by the National Bureau for Tourism directly or through association contracts or service contracts entered into with domestic or foreign enterprises. Tourist enterprises will enjoy exemption from stamp, transfer and working capital taxes. They will also enjoy up to 100% exemption from import duties, but a clearance fee of 5% of the duty exonerated will be levied. All exemptions will apply for 10 years from the starting up of operations. Any taxpayer whether an individual or a legal entity, may deduct from gross income the amounts invested in tourist projects as provided for in the new statute. The new law, effective on April 18, 1974, repeals the original Tourist Promotion Law and all its amendments.\textsuperscript{111}

Benefits have been renewed for fisheries. Legislation regulating fisheries has been enacted. The new law maintains, with few changes, the tax incentives granted under the old law for the promotion of fisheries which applied until March 10, 1974. Eligible enterprises are those regarded as national or mixed under the Rules for Foreign Investment. A contribution equivalent to 5% of each tax benefit enjoyed under the law is imposed. Under the new law, eligible enterprises enjoy the following tax benefits: exemption from import duties, from stamp tax, from the tax on working capital and from export duties. Furthermore, they are allowed a deduction, in computing taxable income, of an amount equivalent to 50% of the reinvestments in activities complementary to fishing. This deduction may not be greater than 50% of net income after workers’ profits sharing. The excess may be carried forward.\textsuperscript{112}

There is a new formula concerning the taxation of mining income. Income derived by mining contractors is to be determined in accordance with a new formula introduced in the Income Tax Law. Small mining companies will pay a single tax equivalent to a percentage of the selling price, as follows: metallic minerals 7%, and non-metallic minerals 4%. The formula includes certain factors and a profitability coefficient which is determined by dividing the updated value of the investment into gross income wherefrom the state’s share (surface tax and royalties) and the worker’s share of profits are to be deducted.\textsuperscript{113}
With respect to Area No. 3, two decrees revising rules for the payment of the so-called fourteenth salary and pension have been passed. The first states that the "fourteenth salary" of active workers has been increased up to 125% of a month's salary, from January 1, 1974. The second states that the additional payment equivalent to one month's pension of retired workers has been extended to workers receiving their pensions from the former employer. Also, from April 1, 1974, workers earning from 1,000 sucres to 5,000 sucres per month have been entitled to a fixed, presumably tax-free bonus equivalent to 250 sucres per month in order to offset a general price increase of basic staples authorized by the government. The new law guarantees one-year stability for all employees under employment contract of undetermined duration. According to declarations made in press conferences by the Minister of Finance, the bonus is not subject to withholding of income tax or social security contributions although the statute is silent in this regard. Unjustified dismissal of an employee or worker will entitle him to receive an indemnity equal to the remuneration that he would have earned until maturity of the employment contract or the one-year period guaranteed by the new law and which is computed from April 1, 1974.

Minimum wages have been established for rural workers. Effective June 12, 1974, full time rural workers have been entitled to receive the minimum salary established for all workers. They shall also receive the "thirteenth" and "fourteenth" salary. By decree, the general minimum salary is 1,000 sucres. Special rules contained in article 313 of the Labor Code are to control those cases where a rural worker receives meals from the employer.

In the Social Security Systems Area only one development is worth noting. In order to resolve the conflict caused by different decisions of the court with respect to payment of reserve funds to a worker not affiliated with the Social Security Institute, the Supreme Court has held in a recent Resolution that the amount of such reserve funds shall be given directly to the worker when terminating his employment. Two different Chambers of the court, interpreting the application of articles 182 and 183 of the Labor Code, reached opposite conclusions. Under the opposite view, the funds were to be delivered to the Social Security Institute.

Within the Tax Administration Area, that is Area No. 5, there is a new procedure for filing tax returns. Taxpayers who receive only salaried income are required to file their returns with their employer during the
period April 1 to April 30 of each year. The tax card will be valid for one year, from July 1 to June 30 of the following year. The new statute amends article 86 of the Income Tax Law and article 80 of the Regulations thereunder, which establish as a general deadline for filing all income tax returns, March 15 of each year.\textsuperscript{118}

Finally, with a few exceptions, tax credit certificates may not be used for the payment of taxes until after one year from their issuance. Beginning March 6, 1974, all special provisions dealing with utilization of tax credit certificates have been repealed. Such utilization will thereafter be governed strictly by the pertinent provisions of the Tax Code and the National Budget Law.\textsuperscript{119}

**EL SALVADOR**

There were only two minor developments worth noting within the Fiscal Policy Area. In accordance with a new law, real property throughout the country will be recorded and appraised for property tax purposes. Appraisals are to be revised as provided in the income, capital and transfer laws whenever the value of the property has decreased or increased. The new statute repeals a Legislative Decree which imposed a fee for the recording and appraisal service. The new statute imposes no such fee; it only requires owners of property to cooperate with the authorities by producing documents which identify the property.\textsuperscript{120}

Several provisions of the Income Tax Law have been amended effective May 10, 1974. Under the amendments, corporations may deduct legal reserves in full, and the procedure for the assessment of the tax in audits has been revised.\textsuperscript{121}

Within Area No. 2, several provisions of the Regulations under the Central American Convention on Tax Incentives for Industrial Development have been amended and new transitional provisions added to it. The amendments deal with procedure for applying for tax exemptions and for applying for equal tax treatment with similar enterprises in other signatory countries.\textsuperscript{122}

In order to encourage production of certain grains, Congress has granted exemption from income tax for profits derived between January 1 and December 31, 1974 by growers of corn and beans. In order to claim the exemption granted by the statute, farmers are required to register in the "Registry of Grain Producers" created therein, and to comply
with other controls to be established by the Ministries of the Treasury, and of Agriculture and Cattle-raising.\textsuperscript{123}

Imports required by the Cattlemen Association of El Salvador will enjoy duty exemption under amendments made in the law which created the Association. The members of the Association are persons engaged in raising and marketing any kind of cattle and who own, rent, or hold unimproved land fit for raising cattle.\textsuperscript{124}

Tax benefits for the poultry industry have been extended for three more years, until December 28, 1976. However, the exemption from income tax is not included in such extension.\textsuperscript{125}

Under Area No. 5, Tax Administration, taxpayers who need to produce a tax clearance certificate for the execution of certain acts while owing indirect taxes to the Treasury will be authorized by the Indirect Tax Bureau to execute such acts, provided they guarantee payment of the taxes due, in the manner prescribed in a new law. The guarantee may consist of a cash deposit equal to 200\% of the taxes due or 100\% of the tax debts under collection proceedings. Such deposit is forfeited if the taxes are not fully paid within six months from the issuance of the guarantee. Bank guarantees, mortgages and bonds deposited as security for payment of the tax debts will also be accepted.\textsuperscript{126}

**GUATEMALA**

The most significant occurrence within Area No. 1 was the creation of an export duty in lieu of income tax. On the ground that citizens are to contribute to the Treasury in proportion to their economic capacity, Congress has enacted a law which overhauls export duties payable by exporters of goods selling for high prices in international markets. Under the new system, sales of up to a certain FOB price per unit are exempt. The excess over that price is progressively taxed at rates ranging from 5 to 45\%. The products taxed in accordance with such a system are coffee, cotton, sugar, beef and fish. Amounts paid under the new system are treated as payments in lieu of income tax to the extent of the income tax liability of each exporter; the balance is treated as payment of export duty. The new taxes apply on the FOB price of 46 kilos (100 Spanish pounds) of the product exported. Such price is not that contracted for by the parties but the price quoted in the international exchanges for similar products on the day preceding that in which the contract is executed. The price of contracts for future sales is that for futures quoted...
in international commodity markets on the day of execution of the con-
tact. All contracts must be registered with the Central Bank of Guate-
mala no later than 15 days after their execution.127

Effective December 21, 1973 and as a consequence of oil by-products
being declared subject to the national emergency, all existing tax exemp-
tions from consumption tax on said products, except in certain cases, have
been repealed. In a subsequent order, the Executive Branch issued regula-
tions covering the procedure by which individuals and institutions that
remain exempt from application of the tax shall apply for such exemption.
The individuals and institutions remaining within the consumption tax
exemptions are those that either by constitutional provision, treaties,
agreements or Public Works Construction Contracts have been enjoying
benefits for importing oil by-products.128

Under a new law, imports of fertilizers from countries outside the
Central American area will be free from import duties. The exemption
applies from June 13, 1974 to June 12, 1975. In order to claim the
exemption, importers are required to show their need for fertilizer in
their farming undertakings and that such fertilizer is not available within
the Central American area in sufficient quantity.129

In Area No. 2 there was a tax break for manufacturing enterprises.
Manufacturing enterprises qualified under the Central American Agree-
ment on Tax Incentives for Industrial Development, as well as those
qualified under Guatemalan industrial promotion regulations in effect
prior to the operation of such Agreement will be exempt from consump-
tion tax on combustibles used in the manufacturing process. The tax
exemption may only be enjoyed by enterprises entitled to import comb-
bustibles free from duties.130

A new Tourist Promotion Law has vested in the Guatemalan Institute
for Tourism the power to determine “zones of tourist interest”; tourist
projects located in such zones will qualify for fiscal and financial benefits.
Income tax exemption is granted to profits from tourist operations for
a 10-year period. For the same period, eligible enterprises will also enjoy
exemption from import duties, from property taxes, and from 50% of
taxes on company formation. They will also enjoy the benefits authorized
by earlier laws, if there is no duplication. The income tax exemption
contained in the new law may be claimed from the starting up of opera-
tions, or from the second year of operations, for the full 10-year period.
Under an earlier law, the exemption was 100% for the first five years
and 50% for the following five years.131
The Assembly approved, and the same day the Executive Branch ratified, the Second Protocol to the Central American Agreement on Tax Incentives for Industrial Development, signed in Guatemala City on October 25, 1973. The new protocol will be in effect until June 30, 1975. Honduras receives preferential treatment through the Protocol, although it is not a signatory. The signatories of this Protocol are Guatemala, Nicaragua, El Salvador and Costa Rica. The Second Protocol will apply to enterprises whose tax benefits under the First Protocol expire between January 1, 1973 and March 31, 1975.\textsuperscript{132}

In the Tax Administration Area, that is Area No. 5, the computation of time periods has been determined. The Income Tax Law has been amended with respect to computation of the time period to file tax returns by individuals and legal entities. To that effect, non-working days are to be excluded. Art. 20 of the Income Tax Law provides that tax returns are to be filed within a 90-day “term”. According to the Law of the Judiciary, the expression “term” means that non-working days are to be excluded, while the expression “time lapse” includes such days. Thus, a new clause has been added setting forth such principles not only with respect to the deadline for filing returns, but with respect to all time limits contained in the Income Tax Law.\textsuperscript{133}

**HONDURAS**

No significant changes were made under Area No. 1.

Under an Executive Order, a new duty on banana exports has been established. Pursuant to an accord on banana trade arrived at on March 14, 1974 by representatives of Costa Rica, Panama, Nicaragua, Ecuador and Honduras, banana exports to traditional markets have been subject to a new duty from April 25, 1974. A Legislative Decree imposed the levy at a rate to be fixed by the Executive Branch, between 2 and 3 cents of lempira (1 and 2½ cents of U.S. dollar) per pound. The rate has been fixed at 2 cents of lempira per pound of bananas. According to the Executive Order, promotional sales or special sales to countries which have not been a regular market for banana exports prior to April 25, 1974 are not treated as sales to traditional markets. The levy is payable within 60 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”.\textsuperscript{134}
Within Area No. 2, tourism has been encouraged. In order to promote tourism from abroad, casinos may be established in the conditions set forth in a new Executive Order. A 15% tax on net income computed before income tax, is payable as business license. Operators are granted 50% exemption from income tax for the first five years of operations as well as duty-free importation of materials and equipment necessary to build and install a casino. Natives of Honduras and persons under 18 years of age will not be admitted. Casino licenses are issued for 25 years computed from the day when operations begin, and are renewable for an equal term. The objectives of the new order, as stated therein, are to promote tourism, attract foreign exchange to the country, and create an additional source of revenue for the Treasury.\textsuperscript{135}

Social Security benefits for teachers have been curbed. Teachers and professors, whether teaching in public or private schools, will no longer be covered by two social security programs. Inasmuch as they are protected by a special program created in 1970, they will be excluded from the social security system applicable to workers in general since 1972. The exclusion became effective on March 1, 1974. According to the government, it was not fair for the teachers and professors to receive double protection nor for them and their employers to pay contributions to two funds, while a great portion of the working population receives no benefits at all.\textsuperscript{136}

Concerning Area No. 5, Tax Administration, a taxpayers' registry has been created. Subject to regulations to be issued by the Executive Branch, all individual taxpayers, legal entities and exempt organizations are required to register in a new National Tax Registry. The tax identification number is to be shown for the various transactions as well as for all other transactions which the regulations may prescribe.\textsuperscript{137}

Lastly, with respect to Special Situations, a Free Trade Treaty with Panama was ratified. The Council of Ministries ratified the recently signed Treaty of Free Trade and Preferential Exchange with Panama. All products included in the Lists annexed to the Treaty shall enjoy import duty exemption. The Treaty was signed in Panama on November 8, 1973 and may be revised every 5 years; any of the parties may renounce its application, effective two years after any such renunciation. Neither signatory country may extend to third countries, under the most-favored-nation clause, the benefits of this Treaty. The Treaty is to become effective from the date of exchange of instruments of ratification.\textsuperscript{138}
MEXICO

Different tax policy measures were taken within Area No. 1.

Several provisions of the Federal Law on the Gross Receipts Tax have been amended, with a view to clarifying application of the tax where an enterprise has several establishments throughout the country. Another change increases from 10 to 15% the tax applicable to sales or leases of automobiles whose retail price exceeds 55,000 pesos. The general 4% rate, rather than the special 10% and 15% rates, apply where goods are exported or shipped to border zones. Where the price of goods subject to the special rates is fixed by the Government, only the general 4% rate will apply.¹³⁹

There is a gross receipts tax on technical assistance. Construing a provision of the Federal Law on Mercantile Receipts, the Tax Court has held that certain expenses incurred in rendering technical assistance from abroad are not excluded from the tax base. The expense involved was air fare charges of engineers employed by a foreign contractor. The aforementioned law provides that the reimbursement of or advance for expenses complementary to the services rendered by a contractor are to be excluded from the amount charged, if such expenses have been incurred for the account of the client, if the contractor could not have rendered the services directly, and if there is no mark-up on such expenses. The Court reasoned that although the engineers' visits were a complementary service, the transportation service was not rendered by the carrier for the benefit of the client, but for that of the contractor.¹⁴⁰

Among the taxes revised were the excise, sales and migration taxes. Under the Tax Reform Law which became effective on January 1, 1974, various excise, property and sales taxes have been revised. The amendments include an increase from April 1, 1974 in the rate of tax on telephone services, and from January 1, in the rate of tax on consumption of cotton, possession or use of automobiles, bottled beverages, alcohol and liquor. The same law has amended the tax on sales of cocoa, and provided for a revised participation by local governments in the revenue from various other excise and sales taxes. Among the laws amended in order to increase the participation of local governments in the revenue resulting therefrom, are the tax on forestry exploitation, salt, resale of lubricants, tobacco, automobile and truck assembly, fishing exploitation and also bottled beverages, alcohol and liquor, and possession of automobiles.¹⁴¹
Effective January 1, 1974, aliens are subject to revised immigration taxes. Tourists are among the persons exempt from such tax.\(^{142}\)

There have been new taxes levied on construction enterprises, transportation carriers, and a departure tax was established. Construction companies may elect to compute the income tax payable for the calendar year 1974 as a percentage of the gross value of work performed during said year. Such percentage is 2.5% of the value of the work, including materials and labor. The election is to be made no later than April 30, 1974. Whether they elect the special computation method, or the filing of an annual return determining net income and the tax due pursuant to the general progressive rate, construction enterprises do not have to pay the estimated tax.\(^{143}\) New rules have been released for determining the basic quota system upon which income tax of transportation carriers is levied for the taxable year 1974. The basic quota for buses, both urban and suburban, ranges from 18 to 100 pesos per seat; the basic quota for trucks ranges from 190 to 4,000 pesos per unit, depending on the truck tonnage. Taxpayers who do not elect the quota system must pay income tax in accordance with the general income tax law.\(^{144}\) On June 28, 1974 a departure tax levied on all airline passengers entered into effect. Infants, crew members and diplomats are exempt. The tax is described as a fee for the use of the airports. The rate is 10 pesos for passengers departing on domestic flights and 50 pesos for passengers departing on international flights.\(^{145}\)

Within Area No. 2, and of interest to foreign companies, nine forms for applying for registration of investments under the Rules for the National Registry of Foreign Investments have been released by the Secretariat of Industry and Commerce. Pursuant to such Rules, the following forms have been released: Registration of foreign persons subscribing to stock of or shares in Mexican companies; Registration of foreign persons acquiring or leasing an enterprise or who have control over its management; Registration of foreign persons establishing an enterprise, agency or branch; Registration of a Mexican company whose capital is shared by foreign investors; Registration of a Mexican company whose management is controlled by one or more aliens; Registration of a trust if foreigners participate therein or derive benefits therefrom; Registration of stock or company shares owned by a foreign investor; Registration of bonds and debentures owned by a foreign investor; Registration of stock or company shares which have been pledged on behalf of a foreign investor.\(^{146}\)
Several tax law provisions are contained in the Revenue Law, continuing prior-year policies with respect to forestry, mercury production, import duty exemptions for airlines, ad valorem export duties on coffee, cotton and shrimp, and a 10% surcharge on imports. Extensions granted for payment of taxes will give rise to a 12% per annum surcharge. As under the 1972 Revenue Law, under the 1973 Revenue Law certain extractive royalties on forestry exploitation will not be applied during 1974; mercury will be subject to only 50% of the production tax and 25% of the export duty thereon; public utilities, carriers and radio and television stations will not enjoy import and export duty exemptions during 1974, but airlines will remain exempt; ad valorem export duties will apply on the official price of coffee, cotton and shrimp exports; and the 10% import duty surcharge levied on various tariff items is not to be applied to imports originating in LAFTA countries or to be consumed within Mexican free zones, or to be incorporated in products to be exported. Art. 10 of the Revenue Law has ratified tariff changes and orders of the Treasury suspending, reducing or demanding payment of taxes.147

Regarding tax subsidies, 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, among others.148

For 10 years, beginning April 1, 1974, small and medium size manufacturing enterprises established in the North Border-Strip and Free Zones will enjoy import duty reductions under a new Executive Decree. Only enterprises wholly owned by Mexican capital are eligible. Machinery and equipment used in the eligible industry may be imported with a 100% reduction of duties. Raw materials, parts and supplies may be imported with a 60 to 100% duty reduction. Both reductions apply only if the goods to be imported are not produced domestically in competitive terms.149
An Executive Decree has extended the duration of the Free Zone benefits for the Nogales area until October 31, 1974, except for those products listed in the new decree. The Secretary of the Treasury and Public Credit is to determine the amounts of excluded products which may be imported dutyfree if domestic production does not meet the domestic demand for such products.\textsuperscript{150}

Finally, with respect to Area No. 5, a provision of the Fiscal Code relating to fines has been amended, as well as several provisions of the Customs Code dealing with documentation covering imports by air or for assemblying enterprises.\textsuperscript{151}

NICARAGUA

The most significant occurrence within Area No. 1 was the enactment of a new Political Constitution. With respect to taxes, it provides that taxes may only be created, increased or waived by legislative fiat, and that the tax system should be oriented towards direct taxation. The importation, circulation and sale of books, brochures, magazines and newspapers are to be exempt from all kinds of national, municipal and local taxes. It is also provided that taxes should be imposed in proportional and progressive fashion, taking into account the taxable capacity of taxpayers, and that there are no personal privileges for tax purposes.\textsuperscript{152}

Also within the Tax Policy Area, the 10\% export tax has been implemented with respect to coffee, effective January 21, 1974. The average standard price of US\$ 40 per net quintal FOB is the basis for the tax.\textsuperscript{153}

Concerning excise tax rates, the tax levied on liquor has been revised. Liquor imported from other Central American countries or from third countries will be subject to the same rates applicable to domestic liquor. Pursuant to the amendments made in the law of April 2, 1930, liquor is classified in fine and ordinary. A 3-cordobas stamp must be affixed to 1-litre bottles containing fine liquor. Ordinary liquor is taxed at 2 cordobas per 1-litre bottle. Wine is taxed .20 cordobas per litre.\textsuperscript{154}

Lastly, within Special Situations, Area No. 6, the Free Trade Treaty subscribed by Panama and Nicaragua on July 26, 1973 and ratified by the latter, has become operative. The Treaty incorporates by reference lists of products which may be imported or exported duty-free. It also provides for national treatment of products originating in each signatory country with respect to taxes on production, sales, circulation or consumption.
With regard to treatment of third-country products, the Treaty provides that the benefits granted under the Treaty are not to be extended to third countries under the "most favored nation" clause. It also provides that if a tax is levied on products originating from the other signatory, similar products originating in third countries must be taxed at least as much.¹⁵⁵

PANAMA

Among the measures enacted in Area No. 1, a new excise tax has been imposed. A new chapter has been added to the Fiscal Code, whereby a new excise tax on soft beverages is imposed effective January 15, 1974. The levy applies upon the sale by the manufacturer. The taxpayer is not allowed to deduct the new levy in computing income tax. The rates of the new tax are .27 Balboa per case of 24 10-ounce bottles, and .54 Balboa per case of 24 16-ounce bottles. Larger containers are taxed at the rate of .125 Balboa per gallon.¹⁵⁶

With regard to import duty, a provision of the Fiscal Code has been construed by the General Director of Revenue. The expression "other small shipping expenses" refers to charges for documents, commissions, and cargo handling, to the extent that they do not exceed 5% of the FOB price and are duly proved. Stevedoring charges comprise the FOB price on which the duty is levied. Where such shipping expenses exceed 5% of the FOB value, the duty applies on the excess.¹⁵⁷ Pursuant to an accord on banana trade arrived at on March 14, 1974 by representatives of Costa Rica, Panama, Nicaragua, Ecuador and Honduras, the tax on banana exports has been raised from 2 cents per bunch to 2½ cents of balboa per pound. The new duty became effective on April 1, 1974.¹⁵⁸

Concerning the Area of Promotion of Economic Development, new mining regulations are in effect. Non-metalic mineral deposits will be explored and exploited according to new regulations. A royalty ranging from 2% to 4% of the value of the mineral at the point of extraction is to be paid monthly by those persons who have been granted exploitation contracts by the government. Contractors may import duty-free machinery and supplies. Exploration contracts are subject to an annual ground rent of up to .50 balboa per hectare; this levy is up to 2.00 balboas per hectare for exploitation contracts. Only nationals or legal entities organized within the country may enter into exploration or exploitation contracts.¹⁵⁹

Machinery, equipment and replacement parts imported by mining contractors will be exempt from duty under the conditions set forth by
TAXATION

an amendment to the Mineral Resources Code. In order to benefit from the exemption granted by article 263 of the Code, as now amended, a contractor must show that he is ready and willing to serve one or more mining concessionaires. Upon completion of the work contracted for, the contractor must transfer the equipment to other eligible contractors, re-export it, or pay off the duties waived.\footnote{160}

Several items of the import-duty tariff, which include tools and equipment used in farming, have been exonerated from duty by a new law. An earlier law granting similar exemption for certain farming equipment has been repealed. Farm tractor tires and chemicals for farm use, which had been exempted by the repealed statute are included in the items of the tariff which have been exonerated. The amendments became effective on June 6, 1974.\footnote{161}

In Area No. 5, two changes are to be noted. Tax Code provisions on payment of stamp tax by public notaries have been amended. These notaries will be allowed to use special paper to which stamps will be affixed, in lieu of the general sealed paper.\footnote{162} The provisions of the Fiscal Code dealing with customs brokers have been revised. The changes relate to qualification, fees, and licensing, and became effective on May 20, 1974. The new statute also provides that the license will be cancelled when a customs broker breaks the law. This provision is not incorporated in the Fiscal Code.\footnote{163}

Within the Special Situations Area, three free trade treaties with Honduras, Costa Rica and Nicaragua are to be considered.

The first Free Trade Treaty was subscribed by Honduras and Panama on November 8, 1973 and approved by the latter. The Treaty incorporates by reference lists of products which may be imported or exported duty-free. It also provides for national treatment of products originating in each signatory country with respect to taxes on production, sales, circulation or consumption. With regard to treatment of third-country products, the Treaty provides that the benefits granted under the Treaty are not to be extended to third countries under the "most favored nation" clause. It also provides that if a tax is levied on products originating from the other signatory, similar products originating in third countries must be taxed at least as much.\footnote{164}

Another Free Trade Treaty was signed by Costa Rica and Panama on June 8, 1973 and approved by the latter. The Treaty incorporates by reference, with amendments, the lists of products which may be imported
or exported duty-free currently in force under an earlier Treaty. It also provides for national treatment of products originating in each signatory country with respect to taxes on production, sales, circulation or consumption. With regard to treatment of third-country products, the Treaty provides that the benefits granted under the Treaty are not to be extended to third countries under the “most favored nation” clause. It also provides that if a tax is levied on products originating from the other signatory, similar products originating in third countries must be taxed at least as much.

The third Free Trade Treaty was signed by Nicaragua and Panama on July 26, 1973 and approved by the latter. The Treaty incorporates by reference lists of products which may be imported or exported duty-free. It also provides for national treatment of products originating in each signatory country with respect to taxes on production, sales, circulation or consumption. With regard to treatment of third-country products, the Treaty provides that the benefits granted under the Treaty are not to be extended to third countries under the “most favored nation” clause. It also provides that if a tax is levied on products originating in the other signatory, similar products originating in third countries must be taxed at least as much.

PARAGUAY

Several Tax Policy measures took place within Area No. 1.

Congress has approved, with amendments, a Decree-Law amending provisions of the Stamp Tax Law of 1964 in regard to rates applicable to various documents. The new rate for sales receipts, loan agreements, promissory notes, leasing of personal property, and contracts dealing with interests on real property is 1.5% (1% under the old law). The rate on company formation and renewal contracts, and capital increases is 2%. A 1% tax applies on domestic drafts and on purchases of foreign currency in the official exchange market. Transfers abroad are taxed at 1.5%, except those made through the free fluctuation exchange market which are exempt. In lieu of income tax, cattle-raising will be subject to a 300-guarani tax per head of cattle processed, and a 500-guarani transfer tax per head of cattle raised by them. A new processing tax is levied on each head of beef cattle slaughtered for exportation; the rate is 2,000 guaranies. In order to continue stimulating industries which process and/or export cattle products and by-products, various tax benefits are awarded for the 1974 herd. To compensate for such benefits, a com-
TAXATION

A supplementary tax of 506 guaraníes is levied. Companies are not excused from filing financial statements with the Income Tax Bureau. The new tax on industrialization is to be withheld upon paying for beef cattle, or borne by the exporter if the cattle was raised by him. The benefits include exemptions from: the stamp tax on certain transactions; export duties; consular fees and import duties on equipment, parts and fittings, motor vehicles and materials for or related to cattle raising; import duty and transfer tax on cattle for industrialization; substitute inheritance tax; and income tax. By decree the exemption from transfer and industrialization taxes applies if such taxes have already been paid with respect to the cattle involved. Also, the exemption from import duty applies only when the products are not produced in Paraguay, or if so, when not produced under competitive conditions.168

Congress has approved, with amendments, a recent Decree-Law amending provisions of the Sales Tax Law of 1968 in regard to the registration of sales companies in the Seller's Registry. The new amendments also deal with the requirements to be satisfied in order to receive a credit for the sales tax applied to prior transfers of the goods sold. All concerns with annual sales of 4,200,000 guaraníes or over shall register. New concerns are to register within the quarter following attainment of sales of 1,050,000 guaraníes or over. Concerns not attaining the minimum sales prescribed by law are to fill an affidavit within 50 days of the close of the fiscal year.169

Regarding real estate, the minimum tax on real estate has been raised from 20 to 200 guaraníes.170 Also, in order to implement the agrarian reform program, additional taxes have been imposed on real property. The rate is 8 per thousand for urban property and 10 per thousand for rural property. In addition, farmland not being exploited will be subject to a progressive tax from the taxable year 1974 in the Western region of the country, and from the taxable year 1975 in the Eastern region. The progressive rates range from 5% of the appraisal if the surface is from 100 to 3,000 hectares, to 30% if the surface exceeds 100,000 hectares, in the Eastern region. In the Western region, the 5% rate applies if the surface is between 3,000 and 10,000 hectares, and the 30% rate, if the surface exceeds 200,000 hectares. Regulations to be issued under the new law will define idle farmland for purposes of the progressive rate.171

Effective January 1, 1974 various goods originating from neighboring countries will be subject to increased import duties, pursuant to a
new decree. Such goods will pay 25% ad valorem duty, rather than the old 20%. Exercising the authority granted it by law, and pursuant to the obligation undertaken vis-à-vis the countries signatory to the Latin American Free Trade Association, the Executive Branch has issued the new customs tariff based on the Brussels Nomenclature for Goods. The new tariff applies on the values of imports and exports to be fixed by the Central Bank. Special rules are provided for with respect to containers, explanatory notes, criteria for classification of goods, among others.173

On December 26, 1973 new taxes on prizes, gambling, and beer and soft drinks were imposed. Prizes from lotteries, sweepstakes and the like will be subject to a 10% tax after deducting 10% of the prize as a presumptive necessary expense. The levy does not apply to casino winnings; instead, admission to casinos is taxed with a 100 guaranies levy per person. Prizes no greater than 5,000 guaranies are exempt. Soft beverages will be subject to a 1-guarani tax per one half litre, and beer to a 1-guarani tax per litre, except special quality beer which is taxed at the rate of 2 guaranies per litre. The foregoing taxes were passed to finance a new pension system for veterans of the Chaco war.174

Referring to Area No. 2. In order to promote forestation, several tax benefits have been provided for in the new Forestry Law, which became effective on January 1, 1974. Such benefits are: exemption from real property tax, investment in forests of up to 100% of the amount of the income tax otherwise payable to the Treasury, and exemption from import duty and foreign exchange surcharges for equipment, seeds, plants, chemicals and other supplies necessary for the afforestation of the country. The Forestry Law declares that the exploitation and management of the country's forestry resources is in the public interest, being subject to the restrictions and limitations set forth in the law. The Executive Branch is authorized to grant loans to encourage private investment in afforestation as well as in processing and marketing forestry products.175

Enterprises which produce tannin will be entitled to several tax benefits under a new decree. Their imports of raw materials, equipment, replacement parts, containers and other supplies will be free from preliminary deposits, duties, additional customs taxes and foreign exchange surcharges. Their exports will be free from export duties and foreign exchange charges. The exemptions do not apply to fuel and goods sold in the enterprises' stores. Imports not covered by the decree must be approved by the Ministry of Industry and Commerce.176
TAXATION

In accordance with the Investment Promotion Law, lists of "necessary" and "convenient" investments have been released by the Technical Secretariat for Planning of Economic and Social Development. The list of "necessary" investments include thirty-three items headed by the minor cattle, poultry and dairy industries and by-products thereof. The list of "convenient" investments contains eight items. These lists supersede those issued by the National Council of Economic Coordination.\textsuperscript{177}

Social Security Systems, that is Area No. 4, did not escape the overhauling. Several provisions of the Social Security Law have been amended. Contributions to the program amount to the following percentages of salaries: 6% payable by the employee, 8% by independent workers, 12% by employers plus an additional 2\textsuperscript{1/2}% of payroll, 1\textsuperscript{1/2}% by the State, and 5% by retired workers. While no upper ceiling for the employer contribution has been fixed, the lower ceiling is the minimum salary, even if not actually earned. Thus, in the case of apprentices, the employer must supply the difference not withheld from the employee's pay. The amendments establish new rules for the computation of the various benefits and pensions provided in the basic statutes. The Income Tax Bureau is charged with reporting to the Social Security Institute the amounts declared by employers in their income tax returns as salary expense and Social Security contributions paid.\textsuperscript{178}

Complementary pensions for those employees already covered by the social security system have been enacted, effective February 1, 1974. They comprise ordinary and extraordinary retirement pensions, disability and dismissal pensions and a voluntary retirement pension, all of which will be payable from January 1, 1975 on. To finance the new program, additional contributions are required amounting to 2% of payroll payable by all employers, and to 3% of the salary received payable by employees and to be withheld by the employer. The combined employer contribution is, thus, 16.50% (14.50% plus 2%), and the employee contribution, 9% (6% plus 3%). The ordinary complementary retirement pension shall amount to one half of the average wages for the last 36 months worked; but when combined with the regular retirement pension, the aggregate amount may not exceed 100% of such average.\textsuperscript{179} The employer contribution to the Social Security Fund has been raised by an additional .50% of salaries paid. The increase will be in effect for five years, from April 1, 1974 through March 31, 1979. The new contribution is earmarked for financing a campaign to eradicate malaria. Under current law, the employer contribution amounts to 14.50%, plus 2%.\textsuperscript{180}
Within Area No. 5, only two measures were enacted. Pricing of imports has been regulated. Ad valorem duties are to be assessed on the fair market value of the goods at the place of importation, regardless of the price fixed by the parties. A Customs Appraisal Service under the Customs Bureau has been charged with the determination of fair market prices in accordance with guidelines set forth in the new statute. The fair market price is defined as that which will prevail in a sale between non-affiliated parties dealing at arm's length. Detailed rules provide guidelines to apply such definition.\textsuperscript{181}

Also, by decree the Ministry of Industry and Commerce has been charged with the administration and control of import duty exemptions granted to foster private enterprises. To defray the cost of such administration, a new clearance fee has been created. Permits for the duty-free importation of capital assets will pay 2 per thousand of the CIF value of the assets. Those for the duty-free importation of supplies and raw materials, including those imported in-bond, will pay 5 per thousand of the CIF value of the goods.\textsuperscript{182}

With respect to the Area of Special Situations, and under a recent Banking Law, the remittance of profits derived by banks or financial institutions operating within the country is limited to 30\% for commercial banks and financial institutions, and 60\% for investment, development and mortgage banks. The balance must be reinvested and remitted at the rate of 20\% per annum thereafter. Repatriation of capital upon winding up operations is limited to 20\% per year. Reinvestment of unremittable profits may be made only in transactions for which the entity is authorized, in mortgage, development or investment banks, or in the same enterprise. When the position of the balance of payments so requires, the Central Bank may decide that the remittance of profits be deferred until such position is improved.\textsuperscript{183}

All workers are required to acquire shares of a newly-created National Workers' Bank. To this effect, employers must withhold monthly .50\% of workers' salaries, beginning March, 1974, until the authorized capital has been fully subscribed to. Four classes of shares of a par value equal to 1,000 guaranies are issued to be subscribed to as follows: Class A, by workers who are members of unions, and public employees; Class B, by workers' unions; Class C, by private enterprise workers not unionized, and Class D, by the State. The authorized capital is 600 million guaranies, but the Bank may begin operations when the paid up
capital reaches 100 million guaranies. Employers are required to withhold and pay over, if so requested by the employee, payments, installments, deposits and other transactions of the employee with the Bank.\textsuperscript{134}

Lastly, the mixed Paraguayan/Argentinian Commission has issued important recommendations implementing 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.\textsuperscript{135}

\textbf{PERU}

Concerning Area No. 1, a series of developments took place early in the year.

In view of current worldwide inflation, the Peruvian government imposed a special surtax on exports of traditional products, effective from March 1 to December 31, 1974. The levy amounts to 10\% of the excess of the export price over the reference price, and it is deductible as an expense for purposes of computing the income tax. If the exporter's financial statements for 1974 show a loss, the tax paid will be refunded up to the amount of such loss. Reference prices for each traditional export are determined by adding 25\% to the average price prevailing throughout 1972. The tax is payable by the exporter upon exportation, by means of a note in foreign currency delivered to the Customs authorities. The Central Bank deducts the equivalent of the note in soles, at the time of releasing to the exporter the soles representing the proceeds of the export which he surrendered to the Bank.\textsuperscript{136} Regulations implementing the tax imposed on profits from traditional exports have been issued. An annex contains the reference prices fixed for the products subject to the 10\% tax. According to the regulations, the law does not apply to enterprises enjoying tax stability under agreements with the government executed prior to March 1, 1974. The regulations contain procedural rules and set forth the powers of the various governmental agencies involved in the collection, the administration and, if the taxpayer suffered an operating loss, the refund of the tax to the extent of such loss.\textsuperscript{137}

Regarding real estate, the self-appraised value of real estate for purposes of the net worth tax levied on individuals will be applied to condemnation proceedings in accordance with a new statute. Pursuant to the amendments, the self-appraised value will no longer apply to ex-
propriations under the agrarian reform law. As to other condemnation proceedings, the self-appraised value will govern only if equal or lower than the value determined by official appraisers.\textsuperscript{188}

Two interesting decisions have been handed down by the Tax Court. The Income Tax Law provides that a corporation may charge the 15% tax on capitalized profits to accumulated or undistributed current profits. Where there are no such profits, the tax is deemed paid for the account of the shareholders and treated as a disguised dividend. In order to benefit from the reduced rate, the capitalization must be made within 6 months from the close of the fiscal year. Thus, the corporate taxpayer charged the tax against the corporate profits of the following fiscal year, that is the year when the capitalization was made. The Tax Court disallowed the charge and assessed the complementary tax on distributions. It would seem that to prevent such result, where there are no accumulated profits, the capitalization of current profits is to be limited to an amount which excludes the amounts necessary to pay the 15% tax.\textsuperscript{189} According to another decision of the Tax Court, where a corporation changes its legal form to a limited liability company, the accumulated profits of the corporation are not to be taxed as dividends by reason of such transformation. The Court reasoned that the transformation does not cause the extinction of the corporation as an entity and, therefore, no distribution is to be imputed in the absence of actual distribution of profits.\textsuperscript{190}

The income tax law provides that personal exemptions and deductions are to be measured in terms of the annual "minimum vital salary" for Lima and Callao prevailing at the beginning of each calendar year. Such salary has been fixed at 3,000 soles per month, or 36,000 soles per year, on April of 1974. Therefore, the 28,800 soles annual salary remains in effect for taxable year 1974, while the 36,000 soles salary will be applicable from the taxable year 1975. Among other reforms to the Income Tax Law it was provided that the minimum personal exemption was to be 13\(\frac{3}{4}\) annual "minimum vital salary" and the personal deductions 1 "minimum vital salary" for the spouse, 3\(\frac{1}{4}\) of a "minimum vital salary" for each child, and 9\(\frac{1}{2}\) of a "minimum vital salary" for other dependents.\textsuperscript{191}

With respect to customs duties, it is worth noting that two Decree-Laws dealing with import duty concessions to Andean countries and a Minimum Outside Country Tariff have been passed. The first states that beginning January 1, 1974 products listed in the Annex to one of the decree-laws will be subject to the duty stated therein, if originating from Colombia, Chile or Venezuela. These duties will be gradually reduced to
zero by December 31, 1980.\textsuperscript{192} The second states that similar products originating in Bolivia and Ecuador will be imported duty-free. This Decree-Law contains a tariff reducing Peruvian import duties on products originating from countries outside the Andean Group, to the Minimum Common Outside Country Tariff established by the Cartagena Commission. The first reduction took effect on December 31, 1973. The remaining two reductions are to be applied from December 31, 1974 and 1975, respectively.\textsuperscript{193}

Within Area No. 2, the announced law on social property enterprises has been enacted. The new enterprises will be owned by their workers and would be capitalized temporarily by cash contributions from the government agency, Financial Corporation for Development (COFIDE). Several tax provisions are contained in the new statute. While on one hand, for 25 years from the promulgation of the law, property contributed by COFIDE will be exempt from the tax on real property transfers, the interest from bonds issued by the enterprises will be exempt from income tax and the "retirement certificates" to be received from COFIDE by retiring workers will be exempt from inheritance tax. On the other hand the operating surplus of the enterprises, remuneration of workers and worker's participation in operating surplus available for distribution to them will be subject to income tax, and 80\% of the enterprises' net worth will be subject to patrimony tax. Social property enterprises may be eligible for qualification under the Industrial Promotion Law and shall enjoy first priority qualification during the first 5 years of operations. Pursuant to the aforementioned Law on Social Property Enterprises, individuals and legal entities would be allowed to invest, free from income tax, up to 50\% of their annual taxable income in "participation certificates." Such certificates will be issued by state financial institutions out of their portfolio of bonds of social property enterprises. The certificates are exempt from inheritance tax, and income therefrom is exempt from income tax. All exemptions will be in effect until May 2, 1999. The certificates may be traded in the Stock Exchange and are not transferable by the investor benefited by the tax exemption, for three years. The investment tax benefit applies to the year of issuance of the certificates.\textsuperscript{194}

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 Industrial Promotion Law industrial enterprises are classified according to their degree of priority for the industrial develop-
ment of the country. Such a statutory listing has been found to afford little flexibility for the fulfillment of the objectives of the law.\textsuperscript{195}

Concerning the Social Security Systems Area, several provisions of the Law which consolidated the Social Security Pension System have been amended retroactively to May 1, 1973. The amendments relate to benefits granted to workers and their survivors, and to withholding of employee contributions to the system. Pursuant to former amendments made, social security benefits will not be attachable except for alimony payments. Furthermore no collection of retirement benefits is permitted if the recipient is actively employed. Male workers who are 55 or over and female workers who are 50 years or over are entitled to retirement pension if they have contributed to their Funds for at least 30 and 20 years respectively. Employers are required to withhold employee contributions and pay them along with the employer contribution within the month following that in which the services were rendered.\textsuperscript{196}

With respect to Area No. 5, provisions of the Tax Code dealing with penalties for tax omission, and for failure to carry books of account in Spanish and to carry other records, have been revised. Art. 153 of the Tax Code, as now amended, imposes severe fines for omitting to report income, including reporting of nontaxable income. Failure to carry books of account in Spanish and in national currency is punished with fines from 500 to 250,000 soles.\textsuperscript{197}

In Area No. 6, implementing the rules of the Industrial Promotion Law on operation of basic industries exclusively by the State, a law sets forth the procedure for divestment of equity in enterprises engaged in such industries. Unless an acquisition contract has been entered into, the State will expropriate the shares held by nationals or foreigners in companies engaged in production of steel, chemicals, fertilizers, cement and paper. Such shares will be appraised and the value so determined will be paid 10\% in cash and 90\% in bonds maturing in 10 annual installments, and yielding 6\% interest. The bonds and the interest thereof are exempt from net worth and income taxes.\textsuperscript{198}

Aside from ownership of the enterprise and wages earned, workers of social property enterprises receive various fringe benefits and protection upon retirement, pursuant to the recently-enacted Law on Social Property Enterprises. A fund for housing for such workers has been created. Contributions to the fund by the social property enterprise are exempt from income tax for 25 years commencing May 2, 1974. \textit{"Re-}
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Retirement certificates" will be issued by the Financial Corporation for Development (COFIDE) to retired or disabled workers or to their heirs. These certificates are exempt from inheritance tax for the period described above. In addition to legal ownership, management and tax privileges, workers will receive financial aid for building their house, training in company management, and the following services: education, health, nurseries and recreation.199

URUGUAY

In the Tax Policy Area, three important changes, among others, have been made in the Income Tax Law. One is to tax at the 45% rate at least 50% of the fees for technical assistance rendered from abroad, which have been paid on or after May 19, 1974; another is to exempt interest for certain foreign loans and dividends attributable to new contributions to working capital; the third deals with the personal exemptions which may be claimed by individuals. Companies having at least 30,000,000 pesos capital of which 60% or more is used in the business, will withhold tax on dividends at a 10% rather than 25% rate. Dividends attributable to new contributions to capital made between May 19, 1974 and May 18, 1976 will be exempt from the 25% withholding tax for the five fiscal years following that in which the capital was increased. No capital reduction will be allowed while such exemption is in effect. Individuals may claim 3,000,000 pesos as personal exemption (6,000,000 pesos if head of household) and 1,200,000 pesos per dependent. The special additional exemption equivalent to 250% of all personal exemptions has been reduced to 100% thereof. Most of the existing taxes have been amended by the same law. Among the amendments are: 1) an increase of the tax in lieu of inheritance tax levied on the capital of corporations, from 1% to 1.2%; 2) changes in certain credits against the tax on imputed income from farmland; and 3) new exemptions from the added-value tax. A 5% tax on the selling price of fuel and lubricants for aircraft has been created by the same law.200

The farmland tax has been implemented. New rules for the determination of the productivity of land for purposes of the tax on imputed income from farmland are in effect. Indices applicable to 185 types of soils throughout the country have been released. A complex calculation based on the new indices is prescribed for determining the value of the land to be applied in computing the tax.201
Regarding the appraisal of real property, additional regulations under the last amendments to the law levying a tax on imputed income from farmland have been passed. The regulations fix the values applicable in computing the tax for the period October 1, 1972 through September 30, 1973. The average basic production per hectare is 17,062 Uruguayan pesos. The brackets of imputed taxable income range from up to 9,500,000 pesos taxed at a 28% rate to over 76,000,000 pesos taxed at a 56% rate. The regulations also provide the coefficients for adjusting the appraisal of urban real estate for the 3-year period 1973/1975 for purposes of the real property tax and the taxes on real property transfers, contracts, rural leases, and net worth.\(^{202}\)

The Executive Branch has established the coefficients or factors to be used in revaluing fixed assets. The maximum and minimum coefficients thus established will apply to fiscal years begun on or after January 1, 1974. The minimum and maximum coefficients for assets acquired in 1954 or preceding years are 536.0 and 655.1, respectively. If real property is subject to a lease, the coefficients are reduced by 50\%.\(^{203}\)

By decree, capital assets for enterprises engaged in manufacturing or in rendering services, financed from abroad on 30-year terms or longer, will be exempt from all import duties and consular fees. Products subject to surcharges are not benefited by such exemption. In the "whereas" of the Decree it is stated that the duty exemption will be granted only if the imported products do not compete with domestic-made similar products, no such restriction appears in the mandatory provisions of the Decree.\(^{204}\)

Deductions have been determined for working capital, technical assistance fees and net worth. In computing the tax on industrial and commercial activities payable by individuals, a deduction for the protection of working capital is allowed as set forth in a new decree. The amount of such deduction must be capitalized. The deduction from gross income amounts to 15% of the book value, adjusted for tax purposes, of inventory at the beginning of the fiscal year, but it may not be greater than 10% of such value at the close of the fiscal year. However, the deduction is further subject to a two-fold limitation: the profits for the fiscal year 1973 and net income computed as prescribed in the new decree. No carryforward of any balance is allowed.\(^{205}\) Exercising the authority granted it by law, the Executive Branch decreed that recipients of fees for technical assistance rendered from abroad are entitled to deduct 33.5% thereof for expenses presumed by law to have been in-
in order to encourage the decentralization of manufacturing and extractive industries, a new deduction for purposes of the net worth tax has been allowed. The deduction ranges from 10% to 25% of net worth depending on the nearness to tax Montevideo Department. In Area No. 2, three major developments occurred, along with two minor ones. The Council of State has enacted a law for the promotion of industries declared to be in the national interest. Guidelines for such declaration are provided for. Individuals or legal entities, whether domestic or foreign, engaged in eligible activities will be entitled to import duty and social security contribution exemptions, and to income tax exemption on operating profits and distributions. Amounts contributed by any taxpayer to the capital of such enterprises may be deducted from taxable income. This deduction applies to income to be declared in returns due between April 28 and December 31, 1974. The tests for determining whether an industry is in the interest of the Nation are either of the following: increased efficiency in production and marketing through adequate levels of technology and quality; increased and diversified exports of industrial goods with highest possible value added; improved usage of raw material and labor; and R & D programs to promote efficient use of unexploited raw materials or other local products, train the labor force, or upgrade quality control. A decree implementing the aforementioned exemption from income tax granted to dividends paid by industrial enterprises has been passed. Industrial enterprises are those engaged in manufacturing as well as those engaged in extractive industries. Rules for computing the capital used in eligible activities are provided for. The tax benefit applies to distributions made on or after April 30, 1974. With respect to the exemption for dividends attributable to new contributions to capital, the decree requires that the funds be invested in fixed assets, although Art. 498 merely requires that the funds be invested in the business of an industrial (or extractive) enterprise.

Another major development which, in accordance with the legislative objective must be discussed under Area No. 2, Promotion of Economic Development, is the new Foreign Investment Law. Foreign investment is welcome under legislation passed by the Uruguayan government. The basic feature of the law is the guarantee of the repatriation of the capital after 3 years and of the remittance of profits without limitations to the invested capital. Capital investments may consist of foreign exchange, machinery, patents and trademarks, technical processes, etc.
must be approved by a newly-created Advisory Unit. However, the law does not contain any provision on licensing agreements. Domestic companies are treated as foreign capital companies if more than 50% of their equity is held by nonresidents who have decision-making power. Although investments may be authorized in any sector of the economy which is regarded to be in the interest of the Nation, a special procedure applies to authorizations for investments in electric and atomic energy, oil, strategic minerals, finance companies, farming, meat processing, railroads, telecommunications, radio, newspapers, television and activities reserved by law for state enterprises. Existing foreign firms have 180 days from April 5, 1974 to make a one-time only choice whether or not to be governed under the new law. Upon exercising such option, the accumulated profits of the last 3 years will be treated as foreign capital.\textsuperscript{210}

The latest major revision in Area No. 2 is the new Hydrocarbons Law. The exploitation of hydrocarbons has been regulated by new legislation and regulations thereunder. Oil deposits belong to the State and will be explored and exploited by ANCAP, a governmental agency. ANCAP may act directly or may contract the services of individuals or legal entities, either Uruguayans or foreign, for the contractor to explore deposits in a designated area, at his own risk and with his own means but in the name of ANCAP. Upon reaching the exploitation stage, the contractor will, thereafter, receive a remuneration. Upon the termination of the contract which may not be for more than 30 years, all assets used by a contractor revert to the Government. The transportation and marketing of crude oil, natural gas and certain by-products is exempt from all taxes and duties. Contractors and their owners or shareholders will also be exempt from all taxes including income tax, in lieu of which the contractor will only pay a 15% tax on imputed income equivalent to 50% of the remuneration received from ANCAP. ANCAP and private contractors must make employer social security contributions. Where the remuneration is payable in kind, the price of the oil will be fixed by the Executive Branch pursuant to rules prescribed in the law. The Executive Branch may issue resolutions granting total or partial exemption from the new 15% tax.\textsuperscript{211}

The Executive Branch has been vested with powers to grant duty exemptions. Accordingly, enterprises engaged in forestry and in the processing of cellulose and lumber are entitled to import, free from all duties, surcharges and customs fees, machinery, tractors, industrial plants, fertilizer and equipment to prevent or combat forest fires. The sale of the
duty-free capital assets within five years from their importation will give rise to double the amount of taxes saved. In order to obtain the exemption, the petitioner is required to produce a certificate from the Ministry of Agriculture showing that the goods to be imported are not available within the country in competitive terms, and that the enterprise's operations conform to general forestry policy.\textsuperscript{212}

The exemption from import duties, consular fees, surcharges and other levies on imports granted to machinery imported by rice producers has been extended for one year, commencing January 1, 1974. Beginning November 14, 1968, when the exemption was first granted, rice producers have been enjoying import duty exemption on capital assets year after year by one-year extensions of the original decree.\textsuperscript{213}

Within Area No. 3, the sole tax on small merchants has been revised. The maximum amount of actual or imputed gross receipts for applying the sole tax payable by small merchants has been raised to 31.5 million Uruguayan pesos. Small merchants are granted the benefits of paying this single tax in lieu of the taxes on business licenses, income from industry and commerce, turnover and cash sales. A special computation applies with regard to the added value tax.\textsuperscript{214}

Concerning the Social Security Systems Area, a law reducing by 2\% (presumably 2 points) the employee contribution to social security funds has been passed. It applies to private enterprise employees whose salaries had been increased as of January 1, 1974. The new law became effective retroactively to January 1, 1974. By a former decree the single social security contribution was reduced by 20\%. From 15\% to 12\% of the salaries of male employees and from 16\% to 13\% for female employees.\textsuperscript{215}

With respect to Area No. 5, broad amnesty has been granted to taxpayers under a new law. Taxes owed as of March 31, 1974 and social security contribution owed as of December 31, 1973 may be paid without penalties no later than 90 days after the publication of the law in the “Diario Oficial”. Unreported income derived up to March 31, 1974 may be declared and subject to a single 10\% tax thereof. Property repatriated from abroad by nationals will be exempt from such 10\% tax. Overdue social security contributions unreported by December 31, 1973 will be cleared by paying 20\% of the salaries then subject to contributions, including interest, fines and surcharges. Taxpayers may elect between paying taxes and social security contributions owed and receive a 10\%
discount, or pay them in installments, and pay a tax equivalent to 10% of unreported income and a contribution equivalent to 20% of the payroll.  

Lastly, within the Special Situations Area, two Protocols have been approved. The Council of State has approved the Protocol of Caracas, amending the Treaty of Montevideo. According to the amendment, the free-trade area is to be in full operation no later than December 31, 1980. Prior to the amendment, the Treaty provided that the free-trade area was to be brought into full operation within not more than 12 years from the date of the entry into force of the Treaty, which occurred in 1961. Also, the Protocol to the Amendments to the Charter of the Organization of American States has been approved.

VENEZUELA

With regard to Tax Policy, an important change is the authority to revise the Income Tax Law. Congress has authorized the Executive Branch to pass certain extraordinary economic and financial measures no later than May 31, 1975. Among such measures is the amending of the income tax law for a two fold purpose: 1) to raise the tax payable by oil companies, and 2) to revise exemptions so as to convert the income tax in a tool for economic policy. Among measures for the benefit of workers, which the President may pass is the regulation of seniority allowances, dismissal indemnities, and salaries and pensions. In order to raised the tax payable by oil companies the President may establish an additional progressive tax on the income left after the current tax is applied.

Another tax policy measure was the enactment of a constructive distribution of dividends. In construing a provision of the Income Tax Law dealing with the withholding of tax on dividends and net branch profits paid or credited to nonresidents, the Income Tax Bureau has held that the tax applies irrespective of whether or not dividends are actually declared and paid. This is because the law treats dividends as distributed at the close of the fiscal year of any agency or economic unit owned by foreigners and operating within the country. Article 49 of the Income Tax Law levies a 15% tax on foreign companies which own a branch or similar economic unit in Venezuela. If such economic unit is a corporation organized under Venezuelan law, the presumption that dividends have been derived applies, and by virtue of article 51, the tax must be withheld.
The deductibility of worthless securities has been determined. In the Income Tax Bureau’s view, losses from worthless securities are not deductible. The Bureau invoked Art. 65 of the Income Tax Law. The taxpayer, a legal entity, was the holder of shares in a company which entered into liquidation after having accumulated losses in excess of its stated capital. The Bureau further reasoned that such a capital loss is not deductible by a shareholder, just as well as dividends, had they been distributed, would not have been taxed.\textsuperscript{221}

Construing an article of the Income Tax Law, the Income Tax Bureau ruled that meat distributors engaged in buying live cattle, slaughtering it and distributing it among wholesale beef packers do not qualify for the 15% investment credit allowed for manufacturers of industrialized products. Other activities listed in such provision are electric energy generation, agriculture, cattle-raising, fishing and transportation, none of which could apply to the taxpayer who asked for the ruling.\textsuperscript{222}

The tax treatment of a trademark purchased abroad for its exploitation in Venezuela and in other Andean Pact countries has been analyzed by the Income Tax Bureau. It was held that the cost of the trademark may be amortized according to the estimated life of the trademark, beginning at the time of acquisition, although its exploitation may begin later. Promotion expenses outside Venezuela would be deductible from the royalty received from exploitation of the trademark in other countries. However, such deduction may not be greater than 5% of the royalty income. In so ruling, the Bureau invoked two articles, one of which includes intangibles among assets used in business, and the other which allows depreciation of tangible or amortization of intangible assets. Deductions against royalty income are limited to 5% of expenses incurred within Venezuela.\textsuperscript{223}

The Executive Branch has repealed the decrees which have exempted from income tax since 1969 interest from 90-day deposits in domestic banks. Deposits established before April 2, 1974 will remain exempt until maturity.\textsuperscript{224}

Within Area No. 2, the main development relates to Foreign Investments’ rules and regulations. Exercising the authority granted it by the law which approved the Andean Agreement and various Decisions of the Cartagena Commission, the Executive Branch has implemented the Rules on Foreign Investments and Transfers of Intangibles, effective
May 31, 1974. The Rules provide guidelines for authorizing foreign investment and for preferring one over another, for determining the foreign capital of enterprises in existence within the country as of January 1, 1974, and for qualifying foreign enterprises as affiliates of domestic companies. Remittances and even distributions in excess of 14% of the registered foreign capital are disallowed. Investments under the Mining Law, the Hydrocarbons Law and the Tourist Promotion Law are not controlled by the Rules. Contracts for the importation of technology and for the use of patents and trademarks, which had been executed prior to January 1, 1974 must be registered with the newly-created Superintendency for Foreign Investments within 6 months from the effective date. Implementing Chapter III of the Rules on Foreign Investments approved by Decision 24 of the Cartagena Commission, the Venezuelan Government has reserved certain economic activities for domestic enterprises. Among them are public services, broadcasting, newspaper, common carriers, trading in goods and services, and professional services in fields regulated by Venezuelan law. No new foreign investment in those areas will be permitted, and divestment of up to 80% of equity in enterprises so engaged and currently in existence must be accomplished no later than May 1, 1977. Studies to determine other sectors of the economy from which foreign investors may be barred are to be undertaken. To that effect, a committee has been appointed.

An industrial free-zone has been established in Paraguana, State of Falcon. Enterprises operating within the zone, interest from loans made to finance operations therein and 50% of interest and dividends from securities issued by enterprises operating there will be exempt from income tax. Goods entering the zone and processed therein will be exempt from customs duties. The income tax exemption for operating profits will apply for 5 years from the start-up of operations. The exemption for interest and dividends is limited to publicly held corporations, and will apply for 10 years from the listing of an enterprise in the Securities National Registry.

Regulations under the Law for the Promotion of Exports have been passed. They contain detailed rules on computation of the value added within Venezuela to exports eligible for tax credit certificates. The regulations contain a list of products identified according to the Tariff for customs duties, in which each product is classified in accordance with the value added locally. Where such value is from 30 to 44.9%, an average 37.5% is imputed to products classified within the group, re-
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Regardless of their actual added value. The seven groups thus established (from 37.5% average up to 100% average) are entitled to tax credit certificates ranging from 11% to 30% of the FOB export value.228

Employment has been encouraged. Granting of tax incentives and other promotional benefits for manufacturing and farming will be contingent, on the level of employment the projects can generate. Labor-saving equipment will have a disqualifying effect, except under very special circumstances. Labor-saving equipment will not prevent the granting of promotional benefits if the use of labor will be technically difficult, or anti-economic, or unsuitable for mass production, or non-competitive with foreign products. Projects so approved will be required to commit a substantial portion of their profits for the expansion of employment in the region where they are located.229

Regarding Area No. 3, a contribution has been imposed on sugar mills. Sugar mills have been required to pay a so-called compensation of 7 bolivares per metric ton of cane delivered to them since March 1, 1974. Such payment may not be passed on to the consumer. The Ministries of Development and Agriculture are charged with administering the new contribution, so as to prevent its economic effect being passed on to consumers.230

The Social Security Systems Area did not escape the overhauling. A Commission charged with formulating an overhaul of the current Compulsory Social Security has been created. The members of the Commission will be appointed by the President of the Nation. They are supposed to produce their study and recommendations within 180 days from their appointment.231

Lastly, within the Tax Administration Area, the Customs Law has been implemented with respect to documents to be submitted by consignees of imported goods, and fees payable for Customs Services. Consignees must submit a manifest of importation and value declaration, the final commercial invoice, special documents required for the particular goods imported and any other document required by Treasury Resolution. The fees are 3⅓% ad valorem, except for parcels imported through the mails, which are 1% ad valorem.232

Rules favoring certification of tax returns and financial statements by independent auditors have been passed. The independent auditor must be a Certified Public Accountant registered in a newly created Registry. If a taxpayer elects to have an independent auditor report on
the income or estate tax returns, the tax liability so determined will be treated as correct, subject to review by the authorities. The certification will be discretionary with the taxpayer until the Income Tax Bureau determines the cases in which the certification will be required.

NOTES

1Law 20643 (1974).
4Decision of May 2, 1974.
7Decision D-1046 (1971).
8Decrees 719 (1973) and 922 (1973).
9Decrees 592 (1973) and 619 (1974).
16Supreme Decree 11319 (1974).
17Supreme Decree 11233 (1973).
18Supreme Decree 11258 (1973).
19Supreme Decree 11333 (1974).
21Supreme Decree 11152 (1973).
26Supreme Decree 11189 (1973).
32 Decrees 73772, 73771, 73765 and 73766 (1974).
38 Treasury Portaria 344 (1973) and Ruling Instruction 2 (1974).
44 Decree 446 (1974).
47 Decrees 2130 (1973) and 2070 (1973).
52 See n. 49, supra.
54 Supreme Decree 2138 (1973).
56 Decree 610 (1974).
58 See n. 53, supra.
60 Decree-Law 446 (1974).
63 See n. 49, supra.
69Decision of March 7, 1973, Administrative Court of Cundinamarca.
70Law 57 (1973).
71Decree 2718 (1973).
72Decree 2346 (1973).
73Decree 515 (1974).
74Decrees 494 (1974) and 2349 (1971).
75Decrees 2719 (1973) and 2788 (1973).
80Legislative Decree 5427 (1974).
84Decree 3653-MEIC (1974).
87Law 556 (1973).
100 Supreme Decree 1415 (1973).
103 Supreme Decree 1383 (1973).
104 Supreme Decree 65 (1974).
110 Supreme Decrees 1247 and 1248 (1973).
113 Supreme Decree 102 (1974).
114 Supreme Decrees 1414 (1973) and 171 (1974).
117 Resolution of the Supreme Court of November 7, 1973.
120 Legislative Decree 604 (1974).
121 Legislative Decree 581 (1974).
123 Legislative Decree 620 (1974).
125 Legislative Decree 506 (1973).
126 Legislative Decree 533 (1974).
127 Legislative Decree 50-74 (1974).
129 Legislative Decree 47-74 (1974).
130 Executive Order of January 8, 1974.
133 Legislative Decree 68-74 (1974).
156 Executive Order 46 (1974).
161 See n. 39, supra.
163 See n. 39, supra.
165 Executive Decree (1974).
169 Executive Decree of March 12, 1974.
170 Executive Decree of June 27, 1974.
171 See n. 39, supra.
174 Legislative Decree 537 (1974).
172 Decree 2008 and Decree 33710 (1973).
175 Law 422 (1973).
179 Law 430 (1973).
185 Minutes of Fourth Meeting of March 6 through 9, 1974, Mixed Paraguayan/Argentinian Commission for Cooperation and Coordination.
188 Decree-Law 20556 (1974).
189 Resolution 9246 (1974).
190 Resolution 9292 (1974).
199 See n. 194, supra.
201 Decree 88 (1974).
204 Decree 353 (1974).
205 Decree 130 (1974).
207 Decree 286 (1974).
209 Decree 446 (1974).
212 Decree 179 (1974).
213 Decree 54 (1974).
214 Decree 82 (1974).
216 See n. 200, supra.
219 Law May 31 (1974)
225 Decree 63 (1974).
228 Decree 1588 (1974).
231 Decree 42 (1974).