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**LATIN AMERICA &
THE CARIBBEAN
INTERNATIONAL TAX UPDATE**

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Agenda

- Argentina
- Bahamas
- Chile
- Curacao
- USVI
- Mexico



Argentina

- Three levels of taxation:
 - Federal
Income Tax, VAT, Import/Export Duties,
Tax on Bank Accounts
 - Provincial
Property Tax, Turnover Tax, Stamp Tax
 - Municipal
Municipal Services



Argentina Income Tax

- Worldwide basis of taxation on:
 - Individuals residing in Argentina
 - Entities formed in Argentina
 - Argentine branches of foreign entities
- Foreign tax credit available
 - Up to the amount of applicable tax in Argentina



Argentina

Corporate Income Tax Rate

- Two levels of taxation
- Corporate:
 - Formerly 35%
 - Tax years between 1/1/2018 and 12/31/2019: 30%
 - Tax years starting 1/1/2020: 25%
- Dividends (paid to individual residents or to nonresidents):
 - Tax years between 1/1/2018 and 12/31/2019: 7%
 - Tax years starting 1/1/2020: 13%
- Equalization tax:
 - Income obtained before fiscal year 2018 taxed when dividends being paid derive from profits that were not taxed at the corporate level. The entity paying the dividend must withhold 35% of the amount being paid in excess of its net taxable income



Argentina

Individual Income Tax Rate

- Ordinary income, graduated tax rate from 5% to 35%
- Transfer of Argentine issued securities (in local currency): 5%
- Transfer of Argentine issued securities (in foreign currency): 15%
- Sale of shares: 15%
- Sale of shares through recognized exchanges: 0%
- Argentine source interest: 5%



Argentina

Value Added Tax

- General rate: 21%
- Capital goods: 10.5%

- Sale of goods in Argentina
- Provision of Services in Argentina (or rendered outside but effectively used in Argentine territory, ie imported services)
- Importation of Goods

- Services provided in Argentina but effectively used outside (ie, exported services) are exempt



Argentina

Personal Assets Tax

- All individuals domiciled in Argentina subject to tax on their worldwide assets
- Nondomiciled individuals subject to tax in Argentine assets
- Graduated rates: 0.25%, 0.50%, and 0.75%
- To the extent assets include shares or other equity participations on domestic entities, the entity itself is responsible for the tax at a 0.25% rate



Argentina

Tax on Bank Accounts

- A tax on debits and credits in Argentine bank accounts
- Also imposed on other transactions when made through organized systems of payment in substitution of bank accounts.
- The general rate is 0.6% on each credit and debit
- 33% of the amount paid for the tax in bank accounts can be used as a credit against income tax or tax on minimum presumed income.
- An increased rate of 1.2% applies when there has been a substitution of a bank account



Argentina Turnover Tax

- A tax on gross income at the Province level
- Rates vary between 3% and 5%
- Applicable on the gross income obtained in each province
- Existing agreements to prevent double taxation for activities carried out in two or more jurisdictions



Argentina

Stamp Tax

- A local tax applied by the provinces on public or private instruments executed in Argentina
- Also applies on instruments executed abroad to the extent that those instruments have effects in one or more relevant jurisdictions within Argentina
- The tax is calculated on the economic value of the contract and the general rate is usually 1%



Argentina

Withholding Rates

- Dividends. New withholding on dividend distributions and branch profit remittances at rates of 7% (2018 & 2019), and 13% (2020 and beyond)
- Royalties. Software licenses: 31.5%, trademark licenses: 28%
- Interest. General rate is 35%. A reduced 15.05% rate is applicable if: a) the borrower is a local financial institution, b) the lender is a bank or a financial institution not located in a low tax jurisdiction, c) the transaction involves seller's financing of depreciable movable property (except automobiles).
- These statutory rates may be reduced under applicable tax treaties



Argentina

Tax Treaties

- 20 income tax treaties in force: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Mexico, Norway, Russia, Spain, Sweden, Switzerland, the Netherlands, the United Kingdom and Uruguay
- In general, based on the OECD model and seek to avoid double taxation, other than the treaties with South American countries
- To date, there is no tax treaty in effect between Argentina and the United States
- Argentina has entered into tax treaties with China, United Arab Emirates, Luxemburg, Japan, Qatar and Turkey, but these agreements are not in force yet



Argentina

Information Exchange

- Main TIES signed by Argentina: Andorra; Armenia, Aruba, Azerbaijan, Bahamas, Bermuda, China, Costa Rica, Curaçao, Ecuador, United States, Guernsey, Isla de Man, India, Ireland, Cayman, Jersey, Macao, Macedonia, Monaco, San Marino, South Africa, Turkmenistan and Uruguay
- Argentina does not have a FATCA IGA with the US
- Argentina is a member of CRS



Argentina

CFC Rules

- CFC rules apply if a foreign company has “fiscal personality” (ie, companies that are treated as local taxpayers in their jurisdictions) and to the extent these conditions are met:
 - (1) the resident taxpayer (together with related parties, if applicable) owns at least a 50% participation in the foreign entity;
 - (2) the foreign entity "does not have organization of material and personal resources to carry out its activity," or obtains at least 50% of passive income, or its revenues constitute deductible expenses for resident related parties;
 - (3) the income tax paid abroad is lower than 75% of the tax that would have corresponded under Argentine income tax rules.
- If such conditions are met, the Argentine resident shareholder should recognize the income obtained by the foreign company as if the foreign company did not exist.



Argentina

Recent Developments

- On December 29, 2017, Argentina published Law 27,430:
 - Value Added Tax (VAT) on digital services and income tax on crypto currencies – BEPS Action 1
 - New CFC rules included in the income tax law – BEPS Action 3
 - Modification of the thin capitalization rules – BEPS Action 4
 - Anti-abuse clause included in recent Tax Treaties (Spain, Chile, Mexico, Brazil) – BEPS Action 6
 - New definition of Permanent Establishment – BEPS Action 7
 - Regulation of Joint Determination of Prices of International Operations BEPS Actions 8-10.
 - Sanctions related to country-by-country reporting – BEPS Action 13
 - Regulation of the Mutual Agreement Procedure - BEPS Action 14.
 - Signature of the Multilateral Convention to Implement Treaty Related Measures to Prevent Base Erosion and Profit Shifting – BEPS Action 15.



Argentina

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Bahamas

- The Bahamas has no income tax, corporate tax, capital gains tax, inheritance tax, or wealth tax
- There is a payroll tax paid by the employer (5.9%) and by the employee (3.9%)
- A VAT was introduced in 2015 at a 7.5% rate, and increased to 12% in 2018
- Stamp Duties are necessary on most legal documents at a rate of 2.5% for documents valued under \$100,000, and 10% for documents over that amount
- Very onerous import duties apply on a wide range of products (for instance, automobiles subject to 45% to 75% duty)



Bahamas

Information Exchange

- Main TIES signed by Bahamas: Argentina, Australia, Canada, Czech Republic, France, Georgia, Greenland, Iceland, Indonesia, Ireland, Japan, Belgium, Denmark, Norway, Spain, Sweden, Netherlands, Aruba, New Zealand, China, Monaco, Finland, South Korea, Poland, San Marino, Guernsey, The Faroes, Germany, India, UK, Mexico, USA, South Africa, and Malta
- Bahamas does have a FATCA IGA with the US (Model 1)
- Bahamas is a member of CRS
Full implementation expected in 2020



Bahamas

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Chile

- Two levels of taxation:
 - Federal
Income Tax, VAT, Social Security, Inheritance
 - Local
Property Tax, Stamp Tax

Chile

Corporate Income Tax Rate

- Worldwide basis of taxation
- First Category Tax (FCT):
 - Applies to resident entities engaged in business activities in Chile
 - Rate under Attributed Income System (AIS): 25%
 - Rate under Partially integrated System (PIS): 27%
- Second level tax:
 - AIS 35% with a 100% credit of the FCT, total effective rate is 35%
 - PIS 35% with a 65% credit of the FCT, total effective rate is 44.45%



Chile

Individual Income Tax Rate

- Worldwide basis of taxation
- Ordinary income, graduated tax rate from 0% to 35%
- Dividends and capital gains are taxed as ordinary income



Chile

Value Added Tax

- General rate: 19%
- Sale of goods in Chile
- Provision of Services in Chile
- Importation of Goods



Chile

Social Security Tax

- Employee portion (including 10% pension plan): 17.6%
- Employer portion: 3.35%
- Total combined rate: 20.95%



Chile

Transfer and Wealth Taxes

- Inheritance Tax: Graduated rate from 1% to 25% depending on the amount.
- There are no wealth taxes

Chile

Withholding Rates

- Dividends: 35% under AIS, 44.45% under PIS (with FCT credited against the withholding)
- Royalties. 30% general rate, 15% software
- Interest. 35% general rate, 4% to financial institutions



Chile

Tax Treaties

- Income tax treaties in force: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, France, Ireland, Italy, Japan, Malaysia, Mexico, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russia, South Africa, South Korea, Spain, Sweden, Switzerland, Thailand, UK
- Treaties not yet in force: Uruguay and USA



Chile

Information Exchange

- Main TIES signed by Chile: Guernsey, Uruguay, and a Multilateral Convention
- TIES not yet in force: Bermuda and Jersey
- Chile does have a FATCA IGA with the US (2014)
- Chile is a member of CRS



Chile

CFC Rules

- 50% direct or indirect control (excluding relatives) and 80% passive income
- At least 2 of the following requirements need to be met to apply CFC:
 - Effective tax rate below 17.5%
 - Not signed an TIEA with Chile
 - No transfer pricing rules
 - Restriction to access financial information for further exchanging with third countries
 - The OECD has identified either as a preferred tax regime or a non-cooperative country
 - The jurisdiction has a territorial tax regime



Chile

CFC Rules

- Individuals residents in Chile with more than of 3 years of residence are obligated to submit the Sworn Statement 1929 in order to report foreign investments and the corresponding income generated abroad

Chile

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Curacao

- Main taxes:
 - Profit Tax
 - Turnover Tax
 - Personal Income Tax
 - Wage Tax

Curacao

Corporate Taxes – Profit Tax

- Profit tax is levied on the profits of domestic and foreign corporations. A domestic corporation is taxed on its worldwide profits. A foreign corporation is subject to profit tax on profits attributable to the PE or real property owned in Curacao.
- Profit tax is levied at the general rate of 22%, however, reduced profit tax rates of 2% apply to:
 - companies operating in an economic zone ('e-zone'); and
 - companies that meet a minimum investment amount, have a minimum number of employees and that are engaged in certain type of activities, such as industrial activities, real estate development, hotel business, aviation, aerospace and shipping industry, education, medical care, transport and logistics, creative industry, green energy.



Curacao

Corporate Taxes – Profit Tax

- Income received from real property situated outside of Curacao, and income received from activities outside of Curacao through a PE is fully tax exempt. However, profit tax will be levied in Curacao at an effective rate of 10% with respect to foreign source income consisting for more than 50% of passive income (dividends, interest or royalties) unless such income is subject to tax in the foreign country at a rate of at least 10%.
- Furthermore, a tax exemption applies with respect to the following vehicles and tax regimes:
 - Curacao Investment Company;
 - Private Foundation;
 - Innovation box applicable to research and development activities;
 - Tax Transparent Entity.



Curacao

Corporate Taxes – Turnover Tax

- Turnover tax is an indirect tax that is levied on:
 - the import of goods;
 - the delivery of goods; and
 - services rendered by entrepreneurs that are resident or established, or have a PE in the territory of Curacao.
- General rate is 6%. Rate on certain luxury goods is 9%.



Curacao

Individual Taxes – Income Tax

- Personal income tax is imposed on the income of individuals, both resident and non-resident.
- Resident individuals are subject to income tax on their worldwide income, unless otherwise provided under the terms of a tax treaty. Partial relief may be available for certain foreign source income and special tax rates apply to certain types of income. Curacao does not have unilateral provisions for the prevention of double taxation with respect to personal income.
- Non-resident individuals are subject to income tax on net income from Curacao source income (subject to many rules and exceptions)
- The income tax rate ranges between 9.75% and 46.5%
- A flat rate of 19.5% applies to certain capital gains and dividends



Curacao

Information Exchange

- Main DTT signed by Curacao: Norway and Malta
- Curacaohile has entered into 23 TIES
- Curacao does have a FATCA IGA with the US (2016)
- Curacao has signed the MCAA and is a member of CRS. As of 2018 Curacao has begun information exchange under CRS



Curacao

Recent Developments

- Changes introduced in 2018 in accordance with the measures proposed by the OECD (BEPS action plans):
 - Introduction of a substance requirement for certain activities.
 - Amendment of the rules applicable to the Curacao Investment Company
 - Introduction of an innovation box: qualifying income (including royalties and capital gains) derived from the exploitation of qualifying intellectual property are taxed at a rate of 0%
 - Amendment of the e-zone regime.
- In 2019 the EU members have indicated that there are some features in the Curacao territorial tax system that need to be adjusted in order to comply with EU standards. Curacao has committed to introduce the proposed changes as of by 2020.



Curacao

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USVI

- The USVI is a territory of the United States, but not a state, which means special tax rules apply.
- The USVI generally adopts the Internal Revenue Code of the United States, but with the words “Virgin Islands” inserted in place of the United States.
- This system of taxation in the USVI is referred to as the “mirror system”



USVI

Corporate Income Tax

- The corporate tax rate in the USVI is the same as the federal rate in the U.S., pursuant to the “mirror system”
- A surcharge equal to 10% of the tax applies, making the corporate rate in the USVI 23.1% (21% + 2.1% surcharge)
- There is also a gross receipts tax of 4%
- Under its “exempt companies” program, foreign persons may establish a USVI entity which is exempt from all USVI income and gross receipts taxes on income from non-USVI sources. There are also certain programs in the USVI that provide significant tax benefits for companies that operate there, if the relevant requirements are met.



USVI

Individual Income Tax

- Individuals who are bona fide residents of the USVI are generally taxed in the same way as individuals who are residents in the United States. With certain exceptions, their tax is generally remitted to the USVI Bureau of Internal Revenue instead of the IRS.
- Tax residency is established generally if there is with 183 days (with flexibility in some circumstances) + tax home test + closer connection test.



USVI

Withholding Rates

- The withholding rate on passive income of foreign corporations and on individuals who are not U.S. taxpayers is 10%, subject to certain exceptions.



USVI

Treaties & Information Exchange

- As a U.S. territory, the USVI cannot enter into tax treaties or TIEAs
- The USVI is excluded from the benefits and obligations of all US tax treaties since the USVI is generally excluded from the definition of “United States” in those treaties (except in certain TIEAs entered into by the US that do include the USVI within the definition of “United States”)
- The USVI does share information with the United States, upon request, pursuant to its Tax Implementation Agreement with the United States
- The USVI is not part of CRS



USVI CFC

- USVI applies the same CFC rules as the US under the mirror system
- Corporations formed in the USVI are considered “foreign” for US tax purposes. This means that US shareholders of corporations organized in the USVI are subject to the US CFC rules



USVI

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Mexico

- Three levels of taxation:
 - Federal
Income Tax, VAT, Import/Export Duties, Excise Taxes
 - State
Property Tax, Tax on Acquisition of Real Estate
 - Municipal
Municipal Services



Mexico Income Tax

- Federal tax, no local income taxes
- Worldwide basis of taxation
- Corporate rate: 30%
- Individual Rate: 35% (highest marginal rate)
- Dividends: 10% (effective rate 42%)



Mexico

Gift & Succession

- No transfer taxes in Mexico (yet!)
- Gifts and Inheritances generally treated as income
- Nontaxable income if from close relatives
- Must be disclosed to remain nontaxable
- Carryover basis on transfers in kind
- Transfers of Mexican shares and real estate to nonresidents by inheritance are not exempt (25% tax on FMV, basis is stepped up)



Mexico

Value Added Tax

- General rate: 16%
- Sale of goods in Mexico (real estate exempt)
- Provision of Services in Mexico
- Importation of Goods
- Exports of goods and services, generally tax free
- Food is exempt



Mexico

Withholding Rates

- Mexican source income
- Capital gains (Mexican real estate or Mexican shares): 25% of gross proceeds (option to pay 35% of net proceeds with certain requirements)
- Dividends: 10%
- Interest: 4.9%, 10%, 15%, 21%
- Royalties and Technical Assistance: 5%, 25%
- Payments to a PTR: 40%



Mexico

DTTs & TIEAs

- Treaties in force or in negotiation with approximately 100 jurisdictions
- Information exchange with most treaty partners
- Signatory of the Convention on Mutual Administrative Assistance in Tax Matters
- Treaty Rates:
 - Dividends: 0%, 5%, 10%, 15%
 - Interest: 4.9%, 5%, 10%, 15%
 - Royalties: 10%, 15%



Mexico

Information Exchange

- Information Exchange with all treaty partners
- Mexico was an early adopter of an IGA in 2012 (Model 1)
- Over 80 activated relationships under CRS



Mexico

CFC

- Anti deferral rules
- Not based on black list of “tax havens”
- Based on “Preferential Tax Regimes” (PTR)
 - Income subject to tax lower than 75% of the tax that would apply in Mexico
 - Income obtained through fiscally transparent entities
- Exceptions:
 - Active business income represents at least 80% of income
 - No effective control over timing of income distributions
- Information Return on:
 - PTR Income
 - Income from “black list” jurisdictions even if not a PTR



Mexico

Recent Developments

- Tax Reform Proposal for 2020:
 - Permanent Establishment, changed (BEPS Action 7). An agent acting exclusively or “almost exclusively” for a nonresident related party would be presumed not to be an independent agent. All current PE exempt activities, will have to be subject to the preparatory and/or auxiliary test.
 - Interest expense deduction limited to 30% of EBITDA for taxpayers with more than MXN \$20 million (US \$1 million). Balance can be carried forward 3 years.
 - Foreign fiscally transparent entities (up to now, treated as preferential tax regimes) are now regulated separately. Income from these transparent entities subject to tax currently in the hands of the Mexican owner/partner.
 - Digital services (app economy) now subject to VAT and Income Tax.



Mexico

Recent Developments

- Tax Reform Proposal for 2020:
 - PTR, change in the definition of control, now includes effective control of over 50% of the voting rights or 50% of the capital, or over 50% of the rights to a capital redemption and its corresponding income, or any combination thereof.
 - Reportable Transactions. Tax Advisors must report any tax scheme that results in a tax benefit in Mexico, including schemes that result in avoiding information exchange by tax authorities, transfe pending tax losses, applies a tax treaty benefit to a taxpayer that is not subject to tax on the other jurisdiction, transfers intangibles that are difficult to value, involves changes of tax residence, includes an NDA with the tax advisor, the fees of the tax advisor are a proportion of the tax savings, etc.
 - Tax fraud is now considered organized crime, and as such, the accused party may not be free on bail during the trial, and their property is subject to asset forfeiture.



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