

**Berkowitz Pollack Brant
CPAs**

US Tax Reporting impact of recent Latin American Developments

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US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuelan company – Functional Currency

U.S. Treasury FX Rates (FBAR) – Venezuelan Bolivar Fuerte:

2016	673.83
2015	6.30
2014	6.30
2013	6.30

DolarToday FX Rate @ 12/31/2016:

Cucuta	3,311.11
DolarToday	3,164.72
Implicito	914.48
Simadi	674.80
Oanda	9.99



US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuelan company – Functional Currency

IRS FX Rates (Income Tax) – Venezuelan Bolivar Fuerte:

2016 Average FX Rate	9.447
2015 Average FX Rate	6.562
2014 Average FX Rate	6.555
2013 Average FX Rate	6.312

DolarToday Monthly Average FX Rate – 2016 Calendar year:

DolarToday	1,505.66
Implicito	470.62
Oanda	9.06855



Reg. 1.985-1(b)(2)(ii)(D) – Hyperinflationary Currency

(D) Hyperinflationary currency. For purposes of sections 985 through 989, the term hyperinflationary currency means the currency of a country in which there is **cumulative inflation during the base period of at least 100 percent** as determined by reference to the consumer price index of the country listed in the monthly issues of the "**International Financial Statistics**" or a successor publication of the **International Monetary Fund**. If a country's currency is not listed in the monthly issues of "International Financial Statistics," a QBU may use any other reasonable method consistently applied for determining the country's consumer price index. **Base period means, with respect to any taxable year, the thirty-six calendar months immediately preceding the first day of the current calendar year.** For this purpose, the cumulative inflation rate for the base period is based on compounded inflation rates. Thus, if for 1991, 1992, and 1993, a country's annual inflation rates are 29 percent, 25 percent, and 30 percent, respectively, the cumulative inflation rate for the three-year base period is 110 percent $(((1.29 \times 1.25 \times 1.3) - 1.0 \times 1.10) \times 100 = 110\%)$ and the currency of the country for the QBU's 1994 year is considered hyperinflationary. In making the determination whether a currency is hyperinflationary, the determination for purposes of United States generally accepted accounting principles may be used for income tax purposes provided the determination is based on criteria that is substantially similar to the rules previously set forth in this paragraph (b)(2)(ii)(D), the method of determination is applied consistently from year to year, and the same method is applied to all related persons as defined in §1.985-3(e)(2)(vi).

US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuela as a Hyperinflationary Currency

IMF International Statistics – Venezuelan Bolivar Fuerte:

CPI @ 12/31/2015	1,051.27
CPI @ 12/31/2012	163.55
Inflation Factor	6.42
Less: 1.00	1.00
Inflation - 3 year base period test	542%
Hyperinflation Test	> 100%
Became Hyperinflationary - 2010	



US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuela as a Hyperinflationary Currency

If Hyperinflation not used in prior years:

File form 3115 change in accounting method with 2016 tax return
Change in functional currency from Bolivar to USD
Select accounting method – change in functional
currency of QBU



US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuela as a Hyperinflationary Currency - Implicito

Sales by month FX Sales-FC Sales-USD

946.54	30,000,000	31,694
782.99	20,000,000	25,543
683.57	20,000,000	29,258
554.92	20,000,000	36,041
506.11	20,000,000	39,517
468.37	50,000,000	106,753
434.29	25,000,000	57,565
401.54	25,000,000	62,260
358.90	10,000,000	27,863
335.60	10,000,000	29,797
316.39	5,000,000	15,803
269.80	5,000,000	18,533
504.92	240,000,000	480,628



Bolivar as FC – Sales of 475,323

US Tax Reporting impact of recent Latin American Developments - Venezuela



Venezuela as a Hyperinflationary Currency - DolarToday

Sales by month FX Sales-FC Sales-USD

3,402.98		30,000,000	8,816
2,253.22		20,000,000	8,876
1,197.75		20,000,000	16,698
1,027.31		20,000,000	19,468
1,011.45		20,000,000	19,774
1,018.25		50,000,000	49,104
1,048.40		25,000,000	23,846
1,070.52		25,000,000	23,353
1,134.75		10,000,000	8,813
1,171.650000		10,000,000	8,535
1,039.33		5,000,000	4,811
892.37		5,000,000	5,603
1,355.66		240,000,000	197,696



Bolivar as FC – Sales of 177,035

US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

Focus Economics – Argentine Peso

Inflation Rate plus 1 – 2015	1.267
Inflation Rate plus 1 – 2014	1.380
Inflation Rate plus 1 – 2013	1.184
Product	2.07
Less: 1.00	1.00
Inflation - 3 year base period	107%
Hyperinflation Test	> 100%
Became Hyperinflationary – 2016	
3 year base period 2012 – 2014	79.7%



US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

File form 3115 change in accounting method with 2016 tax return
Change in functional currency from Bolivar to USD
Select accounting method code – change in functional
currency of QBU



US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

Qualified Business Unit (QBU):

Foreign corporation (Form 5471)

Foreign partnership (Form 8865)

Foreign disregarded entity (Form 8858)



US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

Dollar Approximate Separate Transaction Method (DASTM)

Foreign corporation (Form 5471) – schedule H, Line 5b

Foreign partnership (Form 8865) – see 8865 form instructions

Foreign disregarded entity (Form 8858) – schedule H, Line 5



US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

Requirement to have monthly transaction information

Sales by month

Purchases by month

SG&A Expenses by month

Ending inventory by month



US Tax Reporting impact of recent Latin American Developments - Argentina



Argentina as a Hyperinflationary Currency

Sales by month FX Sales-FC Sales-USD

	15.85	30,000,000	1,893,314
	15.32	20,000,000	1,305,576
	15.15	20,000,000	1,320,076
	15.07	20,000,000	1,326,974
	14.82	20,000,000	1,349,821
	14.88	50,000,000	3,360,391
	14.12	25,000,000	1,770,887
	14.12	25,000,000	1,770,958
	14.40	10,000,000	694,673
	14.92	10,000,000	670,102
	14.75	5,000,000	339,079
	13.51	5,000,000	370,093
	14.7410	240,000,000	16,171,944



Peso as FC – Sales of 16,281,121

US Tax Reporting impact of recent Latin American Developments - Cuba



Revenue Ruling 2016-8

The list of countries in Revenue Ruling 2005-3 is modified by changing the reference to Cuba as follows:

Country	Starting Date	Ending Date
Cuba	January 1, 1987	December 21, 2015

US Tax Reporting impact of recent Latin American Developments - Cuba



Revenue Ruling 2016-8 – What does it mean?

- Subpart F Deferral is now available for Cuban CFCs
- Foreign tax credits are now available for Cuban taxes
 - Cuban statutory corporate tax rate is 30 percent
 - Requires entity classification election for Cuban corporations
- Effective tax rate for U.S. individual shareholder can now be 39.6 percent. Previously 60.7 percent.
- Effective tax rate for U.S. corporate shareholder can now be 34 percent. Previously 57.1 percent.

US Tax Reporting impact of recent Latin American Developments - Cuba



"Per Se" entities

- are specified in regulations
- cannot elect entity status

US Tax Reporting impact of recent Latin American Developments - Cuba



"Per Se" entities – Excerpt from regulations

- Canada, Corporation and Company
- Chile, Sociedad Anonima
- China, Gufen Youxian Gongsi
- Colombia, Sociedad Anonima
- Costa Rica, Sociedad Anonima
- Cyprus, Public Limited Company
- Czech Republic, Akciova Spolecnost

US Tax Reporting impact of recent Latin American Developments - Cuba



"Per Se" entities

- Cuban Sociedad Anonima (SA) could be added to Per Se' List in future
- Use Sociedad Responsabilidad Limitada (SRL) if viable

US Tax Reporting impact of recent Latin American Developments - Cuba



Doing Business in Cuba Effective Tax Rate - DRE* 2015 Tax year			Doing Business in Cuba Effective Tax Rate - DRE* 2016 Tax year		
	Foreign owned	Cuban owned		Foreign owned	Cuban owned
Cuban corporate income tax	35.00%	30.00%	Cuban corporate income tax	35.00%	30.00%
Cuban corporate profits	1,000,000	1,000,000	Cuban corporate profits	1,000,000	1,000,000
Cuban corporate income tax	350,000	300,000	Cuban corporate income tax	350,000	300,000
Net dividend	650,000	700,000	Net dividend	650,000	700,000
U.S. individual income tax rate	39.6%	39.6%	U.S. individual income tax rate	39.6%	39.6%
US Tax	257,400	277,200	US Tax	396,000	396,000
FTC	0	0	FTC	350,000	300,000
Net US Tax	257,400	277,200	Net US Tax	46,000	96,000
Combined Taxes	607,400	577,200	Combined Taxes	396,000	396,000
After tax profits	392,600	422,800	After tax profits	604,000	604,000
Effective Tax Rate	60.74%	57.72%	Effective Tax Rate	39.60%	39.60%
			*Note that as of 3/4/2016 there are no per se' corporations in Cuba. Reg 1.7701-2.		
			However, watch for Cuba to be added to the list		

US Tax Reporting impact of recent Latin American Developments - Chile



Chilean Corporate income tax

Year	1997	2007	2014	2015	2016	2017	2018
1 st Category Tax	15%	17%	20%	22.5%	24%	25.5%	27%
2 nd Category Tax	23.5%	21.7%	18.75%	16.1%	14.4%	Various	
Various							



US Tax Reporting impact of recent Latin American Developments - Chile



Treaty signed at Washington, D.C., on February 4, 2010. Sent to the U.S. Senate on May 17, 2012, for advice and consent to ratification. Approved by the Senate Foreign Relations Committee and reported to the full U.S. Senate on April 1, 2014, and again on November 10, 2015, and February 8, 2016.

US Tax Reporting impact of recent Latin American Developments – Chile (Regime A)



Chile								
Corporate tax/Dividend tax								
Years 1997 thru 2018	1997	2007	2014	2015	2016	2017	2018	
Taxable income	1000	1000	1000	1000	1000	1000	1000	1000
1st Category	150	170	200	225	240	250	250	
Net Dividend	850	830	800	775	760	750	750	
2nd Category Tax	350	350	350	350	350	350	350	350
Less: 1st Category credit	-150	-170	-200	-225	-240	-250	-250	
Net 2nd Category tax	200	180	150	125	110	100	100	
2nd Category tax rate	0.235294	0.216867	0.1875	0.16129	0.144737	0.133333	0.133333	
Total tax	350	350	350	350	350	350	350	350

US Tax Reporting impact of recent Latin American Developments – Chile (Regime A)



Total Pretax Earnings	1000	1000	1000	1000	1000	1000	1000
Corporate tax	150	170	200	225	240	255	270
Net Dividend	850	830	800	775	760	745	730
Chilean DWT	200	180	150	125	110	100	100
U.S. Dividend tax	336.60	328.68	316.80	306.90	300.96	295.02	289.08
Foreign tax credit	200.00	180.00	150.00	125.00	110.00	100.00	100.00
Net U.S. Dividend tax	136.60	148.68	166.80	181.90	190.96	195.02	189.08
Total Tax	486.60	498.68	516.80	531.90	540.96	550.02	559.08
Net after tax proceeds	513.40	501.32	483.20	468.10	459.04	449.98	440.92

US Tax Reporting impact of recent Latin American Developments – Chile (Regime B)



Chile								
Corporate tax/Dividend tax								
Years 1997 thru 2018	1997	2007	2014	2015	2016	2017	2018	
Taxable income	1000	1000	1000	1000	1000	1000	1000	1000
1st Category	150	170	200	225	240	255	270	
Net Dividend	850	830	800	775	760	745	730	
2nd Category Tax	350	350	350	350	350	350	350	
Less: 1st Category credit	-150	-170	-200	-225	-240	-165.75	-175.5	
Net 2nd Category tax	200	180	150	125	110	184.25	174.5	
2nd Category tax rate	0.235294	0.216867	0.1875	0.16129	0.144737	0.247315	0.239041	
Total tax	350	350	350	350	350	439.25	444.5	

US Tax Reporting impact of recent Latin American Developments – Chile (Regime B)



Total Pretax Earnings	1000	1000	1000	1000	1000	1000	1000
Corporate tax	150	170	200	225	240	255	270
Net Dividend	850	830	800	775	760	745	730
Chilean DWT	200	180	150	125	110	184.25	174.5
U.S. Dividend tax	336.60	328.68	316.80	306.90	300.96	295.02	289.08
Foreign tax credit	200.00	180.00	150.00	125.00	110.00	184.25	174.50
Net U.S. Dividend tax	136.60	148.68	166.80	181.90	190.96	110.77	114.58
Total Tax	486.60	498.68	516.80	531.90	540.96	550.02	559.08
Net after tax proceeds	513.40	501.32	483.20	468.10	459.04	449.98	440.92

US Tax Reporting impact of recent Latin American developments

Chile (Regime B) – Tax treaty



Chile							
Corporate tax/Dividend tax							
Years 1997 thru 2018	1997	2007	2014	2015	2016	2017	2018
Taxable income	1000	1000	1000	1000	1000	1000	1000
1st Category	150	170	200	225	240	255	270
Net Dividend	850	830	800	775	760	745	730
2nd Category Tax	350	350	350	350	350	350	350
Less: 1st Category credit	-150	-170	-200	-225	-240	-255	-270
Net 2nd Category tax	200	180	150	125	110	95	80
2nd Category tax rate	0.235294	0.216867	0.1875	0.16129	0.144737	0.127517	0.109589
Total tax	350	350	350	350	350	350	350

US Tax Reporting impact of recent Latin American developments

Chile (Regime B) – Tax treaty



Total Pretax Earnings	1000	1000	1000	1000	1000	1000	1000
Corporate tax	150	170	200	225	240	255	270
Net Dividend	850	830	800	775	760	745	730
Chilean DWT	200	180	150	125	110	95	80
U.S. Dividend tax	336.60	328.68	316.80	306.90	300.96	177.31 *	173.74 *
Foreign tax credit	200.00	180.00	150.00	125.00	110.00	95.00	80.00
Net U.S. Dividend tax	136.60	148.68	166.80	181.90	190.96	82.31	93.74
Total Tax	486.60	498.68	516.80	531.90	540.96	432.31	443.74
Net after tax proceeds	513.40	501.32	483.20	468.10	459.04	567.69	556.26
						*Assumes Chilean company owned by 50% Chilean residents	

**Berkowitz Pollack Brant
CPAs**

