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# Taxation

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**TAXATION**

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**ARGENTINA*****Tax Reform***

In the previous issue of the *Lawyer*, the changes effected by one decree and eight laws adopted on December 31, 1969 and published in the B.O. of January 19, 1970 were reported. Other amendments not previously reported, include:

1. An increase of the tax on interest payments on account of debentures held by nonresidents, from 41% to 43%.
2. Tax exemptions to encourage mergers and reorganization.
3. Double tax deduction for wages and salaries for firms approved by the National Council on Science and Technology.
4. Elimination of taxes on insurance, capitalization, savings, loans and checks.
5. The number of documents requiring the stamp tax will be reduced and the double tax by the provinces and the capital will be removed; the tax on promissory notes and bills of exchange will also be eliminated.

***Tax Incentives***

The following important guidelines for qualifying for tax incentives are set forth in Law No. 18,587 of Feb. 6, 1970:

1. Emphasis will be placed on the creation of industrial regions.
2. Individuals and companies seeking incentives must be domiciled in Argentina.
3. Emphasis will be given to creating exports and making Argentine products competitive in the international market.
4. Foreign technical assistance will be encouraged.

5. Government participation will principally be in the form of granting subsidies, technical assistance and promoting Argentine products abroad.
6. There are to be no restrictions against foreign ownership; indeed, it will no longer be necessary to advertise applications received from foreigners.

#### *Tax Moratorium*

In an effort to increase tax collections, a recent law establishes a tax moratorium for those taxpayers that as of May 31, 1970, are not current in their tax reporting. Those who bring themselves current will not suffer penalties, punitive interest or other charges, other than interest of 1% per month on the outstanding principal balance. These benefits are not available to those who have committed fiscal fraud. Payment may be made over a period of up to 20 months by equal monthly payments. Law No. 18733 of July 29, 1970.

### BARBADOS

#### *Tax Agreement with U. K.*

An agreement between Barbados and the United Kingdom was recently signed replacing the 1948 Double Taxation Agreement. The agreement takes effect as of April 1969.

#### *Hotel Tax*

New taxes on hotels and on certain goods and services have been announced. The government hopes to raise approximately \$2.5 million by means of these taxes.

### BOLIVIA

#### *Royalties on Certain Minerals*

Exports of copper, antimony and wolfram are subject to royalty payments in lieu of export duties and income taxes. A scale of royalties will be prepared based on content and official quotations for each mineral. Decree No. 09082 of Feb. 2, 1970.

#### *Mining Investment Income*

The taxation of income from investments in mining is now regulated by Decree No. 09083 of Feb. 2, 1970.

## BRAZIL

*Tax Changes*

Decree Law No. 1089 of March 2, 1970 (G.O. March 3, 1970) introduced the following principal amendments:

1. Individual taxpayers may deduct from their gross income amounts invested in

- (a) federal, state and municipal bonds;
- (b) shares of publicly owned companies ("sociedades anonimas de capital abierto");
- (c) shares of Banco de Amazonia S.A. and of authorized investment companies;
- (d) 30% of the amounts paid on the purchase of shares from institutions that have underwritten stock issues; and
- (e) 100% of the purchase price of shares of businesses considered to be of national interest for the development of the northeast and Amazon regions.

2. New maximum limits on deductions for salaries paid to directors and members.

3. Appreciations due to currency fluctuations will be taxable as profits both at the corporate and at the shareholder level except when they are capitalized instead of distributed.

4. New regulations concerning taxing distributors of foreign films, the tax being subsequently fixed at the flat rate of 25% at source.

*Tax Incentives*

The tax incentives available, pursuant to Decree Law No. 157 have been extended by decree through 1970.

The Ministry of Planning has announced that tax incentives for 1971 will be given for regional and sectional development to stimulate exports and that companies may continue to deduct up to 20% of their income tax liabilities to maintain the real value of their working capital.

*Mineral Depletion Allowance*

Depletion allowance of 20% of gross income derived from mining will be allowed during the first 10 years. The amounts so deducted must be

capitalized within 12 months, but all taxes on the resulting capitalizations and stock dividends must be paid. Decree-Law No. 1096, 1970.

#### *Technical Assistance*

It is reported that a recent court decision holds that payment in shares for technical assistance rendered by a foreign company is deemed taxable income to the recipient of the shares.

#### *Taxation of Branch Offices*

A ruling published in the G. O. on January 19, 1970 holds that the Brazilian branch may not deduct expenses incurred by the foreign corporation even though they are related to organization of the branch.

#### *Foreign Remittances*

It is reported that the Federal Court of Appeals recently held that remittances to foreign corporations with no situs or permanent establishment in Brazil for technical services rendered to a Brazilian company are not subject to the withholding tax. Decision No. 65,371 (G.O. of May 5, 1970).

## CHILE

#### *Tax Reform*

The Government recently announced that it intended to introduce legislation that would abolish the present dual income tax structure and replace it by a simplified single system. See discussion in the June, 1969 issue of the *Lawyer*. The Government has also announced that the present sales and purchase taxes would be replaced by a value added tax.

#### *Surtax on Bank Loans*

The surtax on bank loans reported in the previous edition of the *Lawyer* was set for the first quarter of 1970 at 3.76%. Decree No. 233 of Jan. 27, 1970.

The basic tax rate on interest payments on loans to foreign companies was established at 40% for the same period pursuant Central Bank Resolution of Jan. 26, 1970.

#### *Compulsory Loan Extended*

The compulsory loan imposed on taxpayers for tax years 1968 and 1969 has been extended to the current tax year. Law No. 17271 of Dec. 31, 1969.

## COLOMBIA

*Foreign Loans*

The Monetary Board has established new rules governing foreign loans to resident individuals. Payments of principal may not be required before 180 days from date of delivery of the funds. Interest may not exceed 10.25% on maturities of up to and including one year, and may not exceed 10.5% on maturities in excess of one year. Resolution No. 70 of Nov. 26, 1969.

*Interest Deduction*

The Tax Office has resolved that the maximum rate of interest deductible for income tax purposes for 1969 is 18%. Resolution No. 9 of Jan. 21, 1970.

*Bearer Securities*

Withholding at the rate of 30% is now required on the payment of interest and dividends on bearer securities commencing January 12, 1970. Ministry of the Treasury Resolution No. 61 of Jan. 12, 1970.

*Net Worth Tax*

Stocks of closely held companies are to be appraised for net worth tax purposes by the Tax Office even though they may be listed on a stock exchange. Arts 1-2, Decree No. 2147 of Dec. 13, 1969.

## DOMINICAN REPUBLIC

*Industrial Promotion Law*

The Industrial Promotion Law reported in the February, 1969, issue of the *Lawyer* has been amended by altering the composition of the Board for Industrial Development. Law No. 486 of 1969.

## ECUADOR

*Interest on Foreign Loans*

The exemption for interest and commissions on loans from international financial institutions has been extended to guarantees granted by such institutions. Arts. 1-2, Law No. 216 of Dec. 31, 1969.

A Tax Court decision has extended the exemption from income tax on foreign loans to qualified Ecuadorian businesses, to the interest re-

ceived by the foreign financial institution from bonds and debentures issued abroad by such Ecuadorian companies. Tax Court Decision No. 543 of Oct. 27, 1969 (B.T.F. Nos. 10-11, 1970).

#### *Technical Assistance*

A Tax Court decision holds that fees paid by Ecuadorian concerns for technical assistance rendered abroad do not constitute Ecuadorian source income and hence are not taxable. Boletín Tribunal Fiscal Nos. 10-11, 1970.

#### *Interest on Imports*

The Tax Court has also recently held that interest received by foreign exporters on installment sales to Ecuadorian importers is not taxable (B.T.F. Nos. 10-11, 1970).

#### *Taxation of International Carriers*

Foreign airlines and steamship companies doing business in Ecuador through permanent offices will be taxed on all their Ecuadorian source income at the rate of 3% on passenger fares and 10% on freight fares purchased by residents of Ecuador. Any attempt to pass the tax along to the customer is prohibited and will be penalized by a fine equal to 300% of the tax. Arts. 1-8, Ministry of Finance Order No. 12 of Jan. 27, 1970.

#### *Industrial Incentives*

Pursuant to Executive Decree No. 113 of Feb. 17, 1970, the administration of granting tax exemptions will be handled by the Ministries of Industry and Finance (R.O. No. 373 of Feb. 18, 1970).

#### *Petroleum Companies/Amortization of Investments & Expenses*

Oil companies that explore and drill in conjunction with the Government's own petroleum entity are now entitled to accelerated amortization of the investments and expenses related to such exploration and drilling. The benefits do not include certain organizational and promotional expenses. Ministry of Finance Order No. 015 of Feb. 5, 1970.

## EL SALVADOR

#### *Municipal Taxes*

The effective rates of municipal taxes have been amended pursuant to Legislative Decree No. 572 of Dec. 10, 1969.

*Industrial Incentives*

Regulations have been issued extending El Salvador's liberal Industrial Incentives Law to certain small businesses (Decree No. 9 of Jan. 27, 1970) and to the manufacture of certain food products (Legislative Decree No. 619 of Feb. 18, 1970).

*Import Tax*

A tax on containers and packaging material has been enacted, consisting basically of a C\$0.30 levy on each large imported or domestic container sold or distributed in El Salvador where the container consists in whole or in part of synthetic fibres. Legislative Decree No. 591 of Dec. 18, 1969. The previous issue of the *Lawyer* describes incentives recently granted to the container industry.

## GUATEMALA

*Tax Free Government Securities*

Several executive orders authorize issuance of Government notes and bonds with differing maturity dates bearing interest of 12% per annum if negotiated abroad but only 5% if negotiated within Guatemala. Executive Orders Nos. 34-69, 10-70 and 11-70, 1970.

## HONDURAS

*New Income Tax Regulations*

Comprehensive regulations have been issued amending previous tax law effective January 1, 1970. Amongst the important provisions are the following:

1. Honduran source income paid to nonresidents is taxed on the gross amount of such income.
2. Compensation for personal services is deemed Honduran source income if the services are rendered within Honduras or if paid for from Honduras, and are subject to a 10% withholding tax.
3. 10% of all sales made within Honduras by international carriers is deemed to be net taxable income taxed at a 5% rate.
4. Income including capital gains from real estate is taxed at a 5% rate. Executive Order No. 799 of Nov. 19, 1969.



## JAMAICA

*Proposed Closing of Tax Loopholes*

The Minister of Finance and Planning has been quoted as stating that the government is working on revisions to present tax law that would close many of the loopholes that the government feels presently exist and that tightening of such loopholes should result in doubling of tax revenue.

## MEXICO

*Taxation of Transportation Companies*

The present system of taxing these entities has been extended for the 1970 tax year pursuant to a ruling issued by the Secretary of Revenue. Official Circular No. 311-2307 of Jan. 12, 1970.

*Mexicanization*

The Secretary of Industries and Commerce was recently quoted as stating that most of the 650 new industrial projects approved by the Mexican Government included either total or majority Mexican ownership; that principal exceptions were in the canned food and confectionery industries; and, that new projects with full foreign ownership would only be authorized because the magnitude of financing involved is completely beyond the possibilities of local capital, or because highly complex technology is involved, or because virtually all of the production is for export.

*Subsidies for Production and Sales of Gold*

The Secretary of the Treasury has granted a tax subsidy to gold mining companies equivalent to 50% of the royalties payable upon the extraction of the mineral pursuant the Law on Taxes and Promotion of Mining. Order No. 102-226 of Jan. 16, 1970.

Subsidies for the tax on sales of gold will be granted only to those companies that sell their production within Mexico. Order No. 102-B-0067 of Jan. 8, 1970.

## PANAMA

*Tax Incentives/New Developments*

As of April 17, 1970, a tax equivalent to 20% of the taxes waived pursuant to the Production Development Law will be imposed on companies enjoying such benefits. Decree No. 31 of Feb. 12, 1970.

The 5% tax on hotel charges will now be collected by the Panama Institute of Tourism. Decree No. 36 of Feb. 12, 1970.

#### *Bank Franchise Tax*

It is reported that a tax on banks and exchange houses has been decreed, payable from the date of licensing the business regardless whether or not actual business operations have commenced.

#### *Taxation of Real Property*

Two decrees have been reported modifying the real property tax as regards assessments, administration and collections (Decree No. 1 of Jan. 14, 1970) and with regard to exemptions granted for new construction (Decree No. 361 of Nov. 26, 1969).

## PARAGUAY

#### *Proposed Tax Amendments*

The Government has reportedly submitted a modified draft of an income tax bill to Congress that contains a number of fundamental changes to the existing tax structure.

#### *Incentives for the Tourist Industries*

Pursuant to Presidential Decree No. 11,436 of April 2, 1970, individuals and companies engaged in tourist-oriented businesses may qualify for exemptions from import tax and customs duties and foreign exchange charges.

#### *Proposed Export Incentives*

The National Council for Economic Coordination has approved a broad program for economic expansion based upon fiscal and related incentives including the following proposed measures:

1. Gradual reduction of taxes on exports of basic products.
2. Tax exemption on new exports such as fresh fruit, citrus and canned vegetables.
3. Simplification of export procedures.
4. Import restrictions on unessential goods.

5. Abolition of stamp taxes on banking operations related to the purchase or sale of foreign exchange connected with the tourist industry.

## PERU

### *Industrial Incentives Law*

The most recent version of the proposed law would reportedly classify industries into three categories in accordance with their respective importance to the economy.

First priority would be given to heavy industry including the manufacture of machinery and capital goods.

The second category would include processing and export-oriented industries.

The third category would include production of goods deemed non-essential to the development of the country.

Qualification of an industry under one of the categories would be achieved pursuant to a rather complex point system based on a number of features including the degree of national ownership of the industry.

### *Mining Industry*

A number of important fiscal and other changes have been enacted pursuant Decree Law No. 18,225 of April 14, 1970, including elimination of the mine depletion allowance, creation of a new public entity to be known as the Peruvian Mining Company, together with regulations for determining fixed assets and investments (G. O. of April 16, 1970).

### *Technical Assistance*

Beginning the 1970 tax year, 70% of the fees paid from Peruvian sources to nonresident foreigners that rendered technical assistance abroad or that received commissions for purchases or sales made abroad, and 60% of such fees paid to foreign legal entities not domiciled in Peru, shall be deemed Peruvian source income. A 40% withholding tax is payable in either case. These and other changes to existing regulations are set forth in Decree Law No. 18150 of Feb. 17, 1970.

## URUGUAY

*Tax Incentive Laws*

Text has been received of Law No. 13833 of December 29, 1969 that establishes, amongst other benefits, complete income tax exemption for the fishing industry through 1973, and decreasing by 15% per year for the six following years. Additional exemptions are established for import duties on certain fishing equipment, boats and fishing equipment.

An Industrial Development Plan for 1970 has been approved by the Commission on Planning and Budget. The Plan contemplates incentives for certain basic industries including fishing, mining, foods and fertilizers.

*Net Worth Tax*

We are advised that Law No. 13835 of Jan. 7, 1970 establishes a double patrimony tax for 1970 with the second tax being equivalent to that paid for the 1968 tax year.

## TAX CONGRESS

The First Inter-American Congress on Taxation will be held in Rosario, Argentina, November 1-8, 1970. The Congress, sponsored by the Tax Committee of the Inter-American Bar Association, seeks—as a long range objective—to harmonize the sovereign power to tax with the legal, scientific, political and technical developments now taking place in the American republics. Of immediate concern to the Committee is the structure of the taxing institutions, the role of taxation in the development process and in economic integration, and the need to formulate tax regulations within the limits set by the tax laws and the basic rights of the taxpayer. For further information please refer to the pertinent item in the CALENDAR of this issue of the *Lawyer of the Americas*.