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Taxation

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TAXATION

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ARGENTINA

Steel Industry Aided

Decree No. 311 (1969) allows deductions to investors against income tax on amounts actually invested in direct subscriptions of stocks or bonds issued by steel enterprises.

Taxation of Dividends Clarified

The General Tax Bureau has released two opinions clarifying the taxation of dividends. One pertains to taxation of dividends attributable in part to tax-free profits from government contracts. This opinion held that in applying the rules for allocating dividends to exempt and non-exempt earnings, current and accumulated earnings are to be combined. There is no statutory provision establishing which earnings are deemed distributed first, according to the opinion.

The second opinion relates to the tax on dividends or profits distributed by corporations, the tax currently being 12%. It held that distributions of accumulated profits that do not qualify as a dividend under the commercial code, are subject to the levy. *Opinions Nos. 26/68 of August 20, 1968 and 37/68 of October 17, 1968, General Tax Bureau.*

BOLIVIA

New Law on Foreign Investments

The full text of the new industrial incentives law has been received. It is designed to stimulate foreign investment in Bolivia. Excluded are investments for petroleum and gas exploitation.

An autonomous Institute for the Promotion of Investment in Bolivia ("INPIBOL") has been created to administer the program.

Qualifying investments may be made in varying forms including currency, machinery, equipment, trademarks and patents and raw materials.

Title II of the new law establishes three categories depending on the percentage of locally produced raw materials used.

The benefits include the following:

1. *Tax exemption* of 100% for First Category firms, 50% for Second Category and 30% for Third Category of those profits reinvested in production capacity or in purchase of shares of "mixed" companies and State bonds or in shares of new companies qualifying under this law,
2. certain broad exemptions from customs duties,
3. reduction of stamps tax,
4. special schedule of annual depreciation,
5. right to revalue fixed assets under certain conditions,
6. exemption from export taxes,
7. the right to request tariff protection if justified,
8. anti-dumping protective measures,
9. freedom from state competition.

Mining industries enjoy the same benefits as First Category industries (except the payment of royalties on exports of minerals) plus a number of additional benefits peculiar to that industry.

Capital invested in Bolivia and registered with the Institute is guaranteed free availability of and convertibility into foreign currencies.

This law is exemplary both for the broad scope of incentives offered and clarity of draftsmanship. Hopefully it will prove effective and will be followed by certain neighboring countries in contrast to present restrictive legislation.

Earned Income of Individuals

Earnings of individuals are now subject to a "schedular" income tax as well as the "Tax on Total Income". The reformed "schedular" tax is levied on personal services income received during 1969 and thereafter.

The new tax law distinguishes compensation from employment, from independent services and from occasional or temporary work. It sets forth for each kind of income the respective items of gross income, exemptions, deductions, personal allowances, definition of taxable income, tax rates and withholding rules.

Income of resident individuals, whether salaried or self-employed, is subject to the same progressive rates ranging between 3% on the first 3,000 pesos and 25% on the taxable income over 90,000 pesos. The personal allowances for both types of remuneration are also the same; these are 2,400 pesos for the taxpayer and 1,000 pesos for each dependent. Income from salaries and wages enjoy an exemption equal to 20% of the annual gross income, not in excess of 30,000 pesos.

Income of residents derived from services not regularly performed by them and income of nonresidents derived from personal services are regarded as income from occasional services and are taxed at the rates of 8% and 12%, respectively. Law No. 471 (1969).

BRAZIL

Nominative and Identified Bearer Shares

The last edition of *Lawyer* discussed the recent amendments to Brazilian withholding taxes on dividends. Subsequently, Decree-Laws Nos. 427 and 484/69 provided the following treatment of dividends on nominative or identified bearer shares:

1. The 60-day period in respect of dividends on nominative and identified bearer shares counts from the date of publication of the minutes of the meeting at which the distribution was authorized. When this period expires, the respective income must be deposited within the next 15 days in a blocked account at the Bank of Brazil. Failure to comply with these requirements will subject the income to the withholding tax as if the shares were bearer shares.

2. Nominative and identified bearer shareholders may elect to be taxed at the withholding rate applicable to unidentified bearer shares. The option must be communicated to the payor company.

3. The above mentioned option, and the non-occurrence of withholding tax on dividends on nominative shares, do not apply to this income when received by corporations; rather the withholding tax of 15% remaining in force on dividends or profits distributed by one corporate body to another.

Application of Excess Dividends Tax Clarified

An important ruling clarifying the application of the tax on excess

dividends and profits remitted abroad has been issued by the Income Tax Office.

Pursuant to the ruling, the tax applies on the excess over 12% of invested capital, such 12% being the average for each three-year period starting from January 1963. Thus, profits amounting to 36% of the capital invested may be remitted in one year without incurring this tax liability, if there are no further profits in the other two years of the particular three-year period.

The ruling also states that "net profits or dividends" means the net after withholding of the income tax. *Opinion, Income Tax Office (Revista Fiscal, Imposto de Renda No. 4, March 31, 1969, item 52)*.

Amendments to Excise Tax/Export Incentives

A recent decree exempts imports of manufactured goods, when considered essential for projects related to economic development, from payment of the industrial products tax.

A recent decree-law allows producers of manufactured goods to deduct up to 15 per cent on the industrial products tax when their goods are exported instead of being sold on the domestic market. Exporters may deduct expenses incurred abroad for trade promotion. The income tax imposed on interest, royalties and fees for technical assistance paid abroad by the exporter may be reduced from 25% to 70% under circumstances specified in the new decree-law and regulations to be issued thereunder.

Northeast Investments/Tax Exemptions

The income tax exemption for investments in the Northeast and Amazon regions granted to enterprises already established in the Northeast has been interpreted by the Tax Bureau.

The enterprises enjoy a 50% exemption from the income tax. They also may discount from the "income tax due" up to 50% for investments in SUDENE or SUDAM and up to 5% for the purchase of stock. According to the Bureau, by "income tax due" is meant the amount due after the 50% exemption is applied. *Opinion, Income Tax Office (Revista Fiscal, Imposto de Renda No. 24, December 15, 1968, item 444)*.

Remittance abroad of profits derived from such investments is prohibited. This prohibition does not prevent the use of profits to acquire abroad equipment not available within the country. Decree No. 64212 (1969).

CHILE

Amendments to Additional Tax

The following changes in the rate of the Additional Tax have been reported:

1. The rate of the Additional Tax has been increased from 30% to 37.5%, which effectively maintains the old rate since before 1969 a 25% surcharge was added to the 30% rate; and,
2. The rate applying to foreign technicians working in Chile has been increased from 10% to 12%, effective 1970.

Foreign Technicians

In a recent opinion, the Chilean Internal Revenue Service held that nonresident foreign technicians are regarded as engaged in scientific activities, for purposes of the "additional" income tax. Thus, the fees received for work performed within Chile were subject in 1968 to 10% "additional" income tax after payment of the "schedular" income tax at a 7% rate. *Opinion, Internal Revenue Service (Boletín Servicio Impuestos Internos No. 185, April, 1969 p. 6391).*

Net Worth Tax Regulations

The Internal Revenue Service has issued regulations on the recently enacted annual tax on the net worth of individuals. *Revenue Ruling of February 6, 1969 (Boletín Servicio Impuestos Internos No. 184, March, 1969, p. 6317).*

Tax Incentives for Commercial Airlines

A recently enacted law provides for tax incentives for commercial airlines owned at least two-thirds by Chilean nationals or by Chilean companies which are at least two-thirds owned by Chilean nationals.

The tax benefits will be equivalent to those now enjoyed by the National Airline (L.A.N.). Aircraft and spare parts may be imported duty free. Income from air transportation will be subject to the overall complementary and additional taxes—the latter being imposed on non-resident individuals and legal entities deriving Chilean source income.

The exemptions will apply for 15 years beginning from January 1, 1967. Law No. 17101 (1969).

COLOMBIA

Musgrave Report/New Tax Measures

The special committee headed by Professor Musgrave, of Harvard University, submitted to the Government its report recommending tax reforms to be introduced in 1971. The suggestions include abolition of excess profits tax; increases in personal income and company taxes, and in sales taxes and the foreign travel tax; higher dividend exemptions; introduction of a presumed income for the assessment of farm incomes; taxation of capital gains; and reductions in stamp taxes.

The press reaction to the report was generally unfavorable. President Lleras Restrepo backed the Commission's study, pointing out that a one-year detailed work supported by 9,000 work sheets could not be judged in 24 hours on a superficial reading of the recommendations. However, the Government stated it would not be bound by the report, and has just recently introduced its own package of five tax bills:

1. Income tax deductions would be increased from 2500 to 5000 *pesos* for both spouses and a deduction of 2000 *pesos* for each dependent.
2. Withholding taxes would be determined by the Executive branch of the Government with power to require advance payments.
3. Travel tax for Colombians and resident aliens would be increased to approximately U.S. \$66 for each trip abroad.
4. Sales taxes would generally be doubled, but food, fungicides, fertilizers, cattle feed, publications and aircraft would be exempt.
5. Economic Development Bonds would be authorized for issuance in the amount of 300 million *pesos*.

ECUADOR

Limitations on Tax Incentives for the Tourist Industry

A new law provides that hotel enterprises which have not obtained the benefits available under the Tourist Promotion Law as of June 30, 1967, are no longer eligible to receive same. Law No. 108-CL (1969).

Promoted Industries Reclassified

Executive Decree No. 240 (1969) established the industries to be classified as "special" and "A category" under the Industrial Promotion

Law. The classification relates to the scope of the tax benefits granted by the statute.

In order to qualify, enterprises engaged in the activities listed in the new decree must also meet specified requirements regarding minimum capacity, raw materials, exportation of production, and other standards relating to the size of the operation and specifications of the finished product.

Income Tax Surcharge/Guayas Province

The additional income tax imposed on income originating in Guayas Province has been raised to 8%. Law No. 69-03 (1969).

Promotion of Fisheries

Incentive legislation for the fishing industry has been enacted. The law provides for the following benefits applicable until March 10, 1974: exemption from import duties on fishing equipment not available within the country; similar exemption on imports of boats, except shrimp boats; exemption from stamp tax on formation of corporations or companies, on contributions to their capital, on their financing or on increases of their capitalization; and deduction, in computing taxable income, of an amount equivalent to 50% of the reinvestments in activities complementary to fishing. Law No. 110-CL (1969).

GUYANA

Fiscal Committee

A Fiscal Committee has been appointed by the Minister of Finance of Guyana to examine the whole structure of taxation, in order to adapt it to the changed economic and political situation in the country. The Committee is charged with the following duties: review tax policy, both personal and company, in order to bring about a more equitable distribution of the tax burden; improve the effectiveness of collection, and incorporate incentives for saving and local investment; indicate ways and means of offering greater incentives in order to attract and retain private investment and technical, professional, and managerial skills; identify areas suitable for government and cooperative investments; and collect data from both public and private sectors to facilitate the working of the Committee.

JAMAICA

Proposed Tax Measures

Various new tax measures were placed before the Jamaican Parlia-

ment in May, including an alternative 2½% sales tax or 12% capital gains tax on land and equities, a 20% non-development tax on lands sold to nonresident aliens, and a withholding tax of 12½% on payments by local companies to overseas parents. The Government also introduced legislation, to become effective January 1, 1970, that would establish the corporate profit tax at 35%, and which would tax dividend payments separately at rates up to 37½%.

PANAMA

Income Tax on Nonresidents

A new law subjects nonresident workers to an 8% tax on 80% of their earned income. The tax must be withheld by the agent or contractor. In order to have the contract authorized by the Ministry of Labor, the agent or contractor is required to deposit 100% of the estimated amount of tax. Decree No. 70 (1969).

PERU

Export Tax/Fish Products

Exporters of fish flour and fish oil must now pay a new tax in lieu of export duties and sales tax; the new levy applies on the FOB price at the rates of 1% for fish flour and from 1% to 4% for fish oil. Decree-Law No. 17518 (1969).

Tax Haven for Consulting Firms Revised

A new decree-law governs companies domiciled in Peru engaged in rendering technical or financial assistance to multinational enterprises. Tax free treatment is now granted to companies with capital funded from abroad with a capital of not less than three million *soles*. The minimum capital requirement was one million *soles* under the old law. Other restrictions are contained in the new law. Decree-Law No. 17475 (1969) repealing Supreme Decree No. 284-68-HC (1968).

Taxation of Foreign Loans

In order to receive tax exemption or special law tax rates, foreign loans must qualify under the regulations recently issued pursuant to Supreme Decree No. 019-60-HA (1969).

Taxation of Royalties Changed

Royalties paid abroad will now pay income tax at the 20% to 35%

progressive rate currently applied to the income of domestic companies. In addition, the net after-tax royalty is subject to a new 30% tax to be withheld by the payor. Decree-Law No. 17580 (1969).

Tax Free Reinvestments

Industries entitled to the benefits of the Industrial Promotion Law will be allowed to reinvest profits free from income tax in other industrial enterprises or in activities vertically integrated with their industry. Decree-Law No. 17584 (1969).

PUERTO RICO

Inheritance Law Amendment

An amendment to the Inheritance Law giving a widow or widower a greater share in the inheritance left by the deceased spouse was introduced in the House of Representatives.

At present, a surviving spouse inherits half of the deceased spouse's share of community property. The other half is inherited by heirs or relatives of the deceased. If the surviving spouse gets any share, it is inherited in usufruct and the property cannot be disposed of.

Present law makes it possible for distant relatives to inherit properties that were acquired through the efforts of both spouses.

The proposed amendments would make it possible for the surviving spouse to inherit and make use of all of the properties left by the deceased if there are no children or grandchildren to inherit a part of the estate.

URUGUAY

Model Tax Code

A "Model Tax Code" has just been published. It was prepared jointly by the OAS and the Inter-American Development Bank. The study deals with all elements of taxation and strives for uniformity in law, procedure and administration.