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Taxation

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TAXATION

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This report highlights the tax developments in various nations of our Hemisphere. Excluded are the United States and Canada as these countries are well documented in other publications; also, those Latin American countries for which no significant information was available. Emphasis will be placed on bilateral and multilateral tax treaties, industrial incentive legislation, and important modifications to the existing income, excess-profits, and patrimony tax laws of the nations reviewed.

ARGENTINA

It has been reported that tax reform will be carried out effective January 1, 1969. It will include reduction of Category IV taxes which are those affecting retail business, small industry and the free professions.

Law No. 17,752 of May 27, 1968, introduced tax incentives for the construction, equipment and exploitation of hotels designed for the international tourist trade, provided the hotels are newly established in designated areas of Argentina. The enterprises must be established and domiciled in Argentina, and the investments must be effected during the period June 1, 1968 - December 31, 1972. The incentives include a five-year income tax exemption, exemption from stamp duties, and permission to employ up to ten foreign employees on a permanent basis.

An Inter-American Center of Tax Studies has been established in Buenos Aires under the auspices of the O.A.S. The Center will undertake research and supply information on tax matters to officials, as well as to research and educational institutions of the member states.

BOLIVIA

A recent agreement between the Government and Bolivian Gulf Oil, an affiliate of the Gulf Oil Company, increased the payments by Bolivian Gulf Oil to the State to 52% of net profits.

BRAZIL

The U. S. Senate ratified the pending double tax treaty with Brazil in June, 1968. One very important feature of the proposed treaty was deleted, namely, the long-discussed tax credit for investment in Brazil which had been proposed by the U. S. Treasury Department. Another provision of the treaty that was reserved and excluded for the time being gave U. S. investors a deduction for contributions made to Brazilian charities provided such charities were eligible under the laws of Brazil for charitable tax deductions. There is some doubt whether Brazil will accept the treaty with these changes.

It is regrettable that the U. S. Treasury Department was unable to obtain approval for its proposal for the tax credit on investments in Brazil as the Department hoped to use this provision as a model in the negotiation of similar income tax treaties with other Latin American countries. But, even the investment credit is probably not enough. What is really needed for the successful negotiation of these treaties with Latin America and other less developed countries is the recognition of foreign tax concessions by means of "tax sparing" treaty provisions. Tax sparing would involve the grant of a foreign tax credit by the U.S., not merely for tax paid to the less developed country, but also for the tax waived or spared under the latter's tax incentive laws. Such mutually designed incentives are necessary in view of the halting Alliance for Progress program, and the traditional reluctance of many North American firms to invest in less developed countries, especially those with serious exchange control and inflation problems.

In Decree-Law No. 352 of June 17, 1968, the Brazilian Government set forth in detailed fashion the procedures to be followed regarding the payment of all types of fiscal debts. The payment procedure includes discounts of up to 50% of the fines on overdue debts if the payment of the debt is made within 30 days after publication of the law.

Ordinance GB-115/68, issued by the Brazilian Finance Ministry on June 29, 1968, established a system for the registration and identification of taxpayers. The Ordinance establishes the General Registry of Individuals which will issue Fiscal Identity Cards.

A recent decree extends tax benefits offered in the Manaus Free Zone area of Brazil to the importation, processing and manufacture of certain goods, including agricultural and industrial machinery, construction materials, power units for boats, food products and medicines, when the goods are intended for internal consumption in the States of Amazonas and Acre, and the federal territories of Roraima and Rondonia.

It is rumored that the Brazilian Government intends to reduce individual income tax rates as of January 1, 1969.

CENTRAL AMERICA

On June 1, 1968, the five member countries of the Central American Common Market, through an additional Protocol to the General Treaty, agreed to impose additional taxes and duties to protect their balance of trade for a period of five years. The new taxes include a "stabilization" tax, which is actually a surcharge on custom duties imposed on goods imported from non-member countries. The rate of this surcharge will be 30%, and it will also be imposed on those imported goods which are exempt from duties, or subject to reduced rates under a provision for the stimulation of national industry. In the latter case, the surcharge will be computed on the normal rate of customs duties due, if the exemptions or rate reductions were not granted.

Another new tax is a single stage turnover tax on domestic sales at maximum rates of 10% or 20% depending on the category of merchandise.

The new taxes were to become effective as soon as three of the five member countries ratified the Protocol, and then would apply only to those member countries which ratified. However, Honduras and Nicaragua did not await full ratification and imposed additional taxes through national legislation.

COLOMBIA

Important regulations concerning loans by the Export Development Fund were issued by the Bank of the Republic in its Circular No. 1/68. These regulations set forth the guidelines regarding: (1) loans to export businesses to open new markets, (2) loans for working capital requirements of export concerns, and (3) discount facilities for export receivables. The Fund represents Colombia's most significant step to date to develop "minor" exports, that is, exports other than coffee and petroleum products. First indications are that the Government has achieved some measure of success in creating new export markets for beef, other agricultural products, lumber and textiles.

The Council of State decreed in June, 1968 that the national sales tax does not apply to labor expended in connection with repair services. Other clarifications pertaining to the sales tax were attempted by Decree No. 2049, issued July 4, 1968, relating primarily to the imposition of the sales tax on wholesalers and distributors, and providing penalties for failure to state the amount of the tax in invoices.

DOMINICAN REPUBLIC

The new Industrial Investment Incentive Act, No. 299 of March 20, 1968, replaces Act No. 4 of November 3, 1967. The new Act divides investors into three categories. Category A includes new industrial enterprises which will produce primarily for export, and their benefits include exemption from customs duties on importation of equipment and raw materials, plus a 75% income tax exemption for the first five years of production. Category B includes new industrial projects which will save foreign currency or create employment, and especially those that result in the substitution of locally made products for imported ones. These are granted a 95% duty exemption on raw materials and semi-finished products. Category C includes existing enterprises which expand their production facilities for domestic consumption, or change their existing facilities to enable them to utilize domestic raw materials. These are granted an exemption from duties on raw materials and semi-finished products up to 95%.

Industries not qualifying under any of these categories include mining, agriculture and trading. Also excluded are the sugar, oil and gas industries, as well as the tourist, transportation, and construction industries.

PERU

Recently introduced tax measures offer the spectre of more and higher taxation in Peru should they be enacted. These bills would, among other things, raise the maximum tax rates on individuals to 42%, and on corporations to 40%. A Patrimony Tax (or net wealth tax) has been proposed at the rate of $\frac{1}{2}$ of 1%. Also proposed is a tax on realty ranging from $\frac{1}{4}$ of 1% to 1%.

Sweeping changes incorporating fiscal incentives for Peruvian-owned construction firms and for activities that may be carried on only by Peruvian-owned construction companies have been enacted pursuant to Decree No. 347-68-8C, published in the Official Gazette on August 21, 1968. The Decree defines a Peruvian-owned construction firm as one owned by Peruvian citizens, or by foreigners with more than five years residence in Peru. A corporation qualifies as a Peruvian-owned construction firm provided that at least two-thirds of its capital stock is owned by Peruvian citizens. The tax incentives run for a period of ten years, and include exemption from import duties, tax-free reinvestment of profits (subject to certain conditions) and accelerated amortization on construction machinery and equipment.

Among the activities reserved to Peruvian-owned construction firms are: (1) public works, (2) mining and industrial development projects which have been accorded tax incentives or other benefits, and (3) construction projects financed by international organizations, foreign governments, or by local banking and financial institutions when authorized by the Central Reserve Bank, and approved by the Ministries of Finance and Commerce, and of Development and Public Works, where required. Under the Decree, Peruvian companies may associate with foreign firms in carrying out a project provided the participation of the foreign firm does not exceed 49% of the total cost of the project. Where the foreign construction company finances the project, an exemption may be made with prior Governmental approval.

The restrictions placed on foreign firms appear unlikely to assist the local contractors in the long run by discouraging foreign investment, an important source of investment capital.

The expropriation by the new regime of the La Brea concession and the Telara refinery of International Petroleum Company are a source of concern. It is hoped that the compensation will be fair and prompt and that this act will turn out to be an isolated incident. It will be interesting to see whether the Government presses its claim for back taxes as an offset against the moneys to be paid to International Petroleum.

Decree 085-68-FO of August 9, 1968 introduced tax incentives for certain new industrial enterprises established during the next seven years. Enterprises concerned are those engaged in the chemical fertilizer industry and certain other chemical industries. The incentives, applicable up to 1983, include exemption from import duties on necessary machinery, plant and replacements parts, exemption from tax on profits during the first five years under certain conditions and no tax or duty on the establishment of the corporation.

Other incentives have been introduced with respect to enterprises manufacturing machinery which are established during the next five years. These enterprises may import necessary raw materials, semi-finished products, machinery and equipment exempt from import duty. There is also exemption from sales tax for the sale of the enterprise and from income tax with respect to income reinvested in the enterprise. (Decree 090-68-FO).

Special tax incentives are granted to "supranational" companies, that is, those companies which operate in at least three different Latin American countries, have a capital of at least one million *soles*, do not benefit from tax exemptions in other countries, and which invest foreign capital in Peru. (Decree 284068-HC)

TRINIDAD AND TOBAGO

Amendments to the income tax rates applicable to individuals were enacted by Tax Act No. 18 of 1968. The amendments were made retroactive to January 1, 1968 and apply to income for 1968 and subsequent years. The tax rates range from five cents per dollar on the first TT\$1,000. to seventy cents on every dollar in excess of TT\$60,000. However, the law provides that where the chargeable income of a person exceeds TT\$60,000 the tax rate on the total amount of taxable income shall not exceed 50%.

The withholding rates are now, as a general rule, 25% on all distributions, with a 20% rate on payments to individuals and a 30% rate on payments to companies. Where a distribution is made to a parent company, the rate is reduced to 15%.

A treaty with the United States to prevent double taxation, U.S. federal tax, including surtax, imposed by the I.R.S. and corporation and income tax, respectively, has entered into force (T.I.A.S. No. 6400).

VENEZUELA

The June 12, 1968 edition of the Foreign Tax Law Weekly Bulletin contains an interesting summary of the investment picture in Venezuela. The article points out that no restrictions are imposed on the withdrawal of capital, dividends, profits, interests or rentals. The article also discusses the forms of incentives and methods of financial assistance made available to investors by the Corporacion Venezolana de Fomento, an autonomous government agency. Prospective investors should review this fine summary.