
M. J. Langer
M. M. Marti

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NOTE

It is with deep regret that the Editor announces that due to the press of other duties, Contributing Editor John P. Corrigan, Jr. will be unable to submit his Tax Report in the future. Mr. Corrigan's contributions over the past five years have enhanced the stature of the Lawyer, and for this and his unselfish cooperation, the Editor is deeply grateful. In lieu of Mr. Corrigan's Report a special tax feature will appear in this and future issues. The first of these features—Latin American Tax Law Update: 1972—by Mary Mercedes Martí will be found immediately following Mr. Langer's Caribbean Report.

CARIBBEAN REPORT

Tax Havens

The Practicing Law Institute of New York has published a course handbook entitled "Foreign Tax Havens—Choosing the Right One." It contains outlines and other materials relating to various tax havens, including those in the Caribbean such as the Bahamas, Bermuda, the Cayman Islands, Netherlands Antilles and Panama.

BARBADOS

Tax Treaty with Canada

The Canadian Department of Finance has announced that it has begun negotiations with Barbados intended to result in an income tax agreement between them.
BRITISH VIRGIN ISLANDS

"Exempt Bodies Ordinance"

The Legislature of the British Virgin Islands is considering the enactment of an ordinance which may be designated as the "Exempt Bodies Ordinance 1973." If enacted, it would permit any company, partnership or trust whose income comes basically from sources outside the British Virgin Islands to exempt itself from B.V.I. income tax by paying a fee of US$250 per year. In addition to income from sources outside the British Virgin Islands, such a company could also have bank interest or dividends from any source.

CAYMAN ISLANDS

Bank License Fees

Effective January 1, 1973, the annual license fees payable by banks and trust companies in the Cayman Islands were substantially increased. Institutions holding Class B (Offshore) Licenses now pay CI$2,500 (about US$3,000) per year. Those with Class A (Local) Licenses now pay CI$5,000 (about US$6,000) yearly.

JAMAICA

Tax Treaties With U.K. and Canada

Preliminary talks have taken place between Jamaica and the United Kingdom which could lead to a new income tax treaty between them.

Meetings also took place in February 1973 to discuss the revision of the income tax treaty between Jamaica and Canada.

NETHERLANDS ANTILLES

Dividend Tax

The Netherlands Antilles Government has reported that it does not intend to introduce a dividend tax. This preserves intact the present usage of the Netherlands Antilles as a tax haven for special transactions such as Eurobond financing and U.S. real estate investments by nonresident aliens.
U.S.-Netherlands Antilles Tax Treaty

Negotiations are pending which are likely to result in either substantial changes or a new income tax treaty between the U.S. and the Netherlands. It has been learned from a high U.S. Treasury Department official that such changes are not likely to affect the existing treaty as it applies to the Netherlands Antilles.

By way of background it should be noted that the original 1948 treaty applied only to the Netherlands in Europe. In 1955, it was extended to cover the Netherlands Antilles as well. Because of alleged abuses, a 1963 protocol made certain changes which applied only to the Netherlands Antilles. Subsequent modifications have been made applicable only to the Netherlands in Europe, and not the Antilles. Thus, for practical purposes there are now two entirely different treaty texts—one applicable to the Netherlands and the other to the Netherlands Antilles. Apparently the governments will continue to treat them as separate treaties.

ST. VINCENT

Income Tax Amendments

A number of changes were made in St. Vincent income tax legislation by the Income Tax (Amendment) Act 1972 (Act 4 of 1972), according to a report from the United Kingdom Board of Inland Revenue in their publication Overseas Tax Developments. The annual rental value of owner-occupied property is no longer included in the computation of income. Nevertheless, interest on money borrowed to acquire such property is still deductible.

All of the personal and family allowances have been substantially increased.

SURINAM

Dividend Withholding Tax

The Surinam Government has indicated that it may introduce a dividend withholding tax. The possible consequences of such a withholding tax have been discussed by the Surinam Minister of Finance and the Dutch Vice Minister of Finance.
TRINIDAD AND TOBAGO

Tax Treaty With Canada

The governments of Trinidad and Tobago and Canada have held negotiations to discuss revision of the income tax agreements between them.

SPECIAL FEATURE

LATIN AMERICAN TAX LAW UPDATE: 1972

MARY MERCEDES MARTI*

This study reviews the tax developments in eighteen countries of Latin America during 1972 and early 1973, with emphasis on those changes which affect North American investors and corporations. Recurrent legislation, as well as proposed legislation, particularly when the bills seemed likely to become law, are highlighted so as to give maximum coverage in each of such common areas listed below.

Area No. 1 — Fiscal Policy
Area No. 2 — Promotion of Economic Development
Area No. 3 — Inflation Generated Measures
Area No. 4 — Social Security Systems
Area No. 5 — Tax Administration
Area No. 6 — Special Situations

*Director and President of Inter-American Tax Research Ltd., New York, N.Y.; Associate Tax Counsel for Gulf + Western Industries, Inc., New York, N.Y.; LL.B., National University of La Plata, Argentina, LL.M., Harvard University, J.D., New York University. Dr. Marti has also been associated with Lybrand Ross Bros. & Montgomery and with W. R. Grace. She is a member of the Argentine and New York State Bars and has acted as Lecturer and Coordinator at American Management Association Seminars.
Before analyzing the pertinent legislation of each country, it is well to bear in mind three decisions taken by the Cartagena Convention Commission. These decisions, enumerated below, constitute the framework for the treatment of foreign investments by the signatory countries of the Andean Agreement for Subregional Integration.

1. Decision No. 24, of December 31, 1970 laid down Rules on Foreign Investments which are being adopted by each signatory country.

2. Decision No. 40 of November, 1971 approved two model treaties to avoid double taxation.

3. Rules on Multinational Enterprises and Subregional Capital Treatment, and Rules on Investments by the Andean Development Corporation were passed under Decisions 46 and 48, respectively, both dated December 18, 1971.

ARGENTINA

In the Tax Policy Area, important amendments to the income tax law were enacted effective January 1, 1972. A novel provision took into account the effect of inflation on the computation of taxable income by allowing adjustment of the cost of assets in accordance with the coefficient fixed annually by the Income Tax Bureau on the basis of the wholesale prices of nonagricultural products. Nonresidents were allowed a 20% rather than a 50% deduction on payment received as interest, fees for technical assistance, royalties and the like. Thus, since the basic rate was 41%, the effective rate turned to be 32.8% as opposed to 20.5% under the old law.¹

New Income Tax rules were also instituted in 1972. Personal exemptions which had been updated at the beginning of 1972, were again updated at the beginning of 1973. An important change affected nonresidents, i.e., the new law waived the need for showing the withholding of the tax on the remittance, in order to claim the deduction. The new rules for 1973 refer to valuation of inventories, adding flexibility to the rules promulgated at the beginning of 1972.²

Beginning January 1, 1972, the coefficient used to adjust the cost of assets has also been used to adjust the basis of property in determining taxable occasional gains.³
Under amendments introduced in the occasional gains tax law for 1973, gains from the sale of automobiles will be exempt. A new rule applies to the computation of gains from sales of real estate. In addition, the general rate has been increased from 10% to 15%. The 20% rate on lottery prices has been increased to 25% beginning January 1, 1973.

Beginning December 31, 1972, and for the ten years that follow, a new "emergency" tax is to be imposed. It will take the form, as it has in other Latin American nations, of a patrimony tax, that is, a net worth tax. It is levied on individuals and undivided estates. It applies at the rate of 5 per thousand to 15 per thousand where the net worth exceeds 500,000 pesos.

Starting in January 1, 1972 the rates of several excise taxes were also boosted. Similarly, beginning in January 1, 1973, the tax rates were upped for the stamp tax.

In Area No. 2, the most significant development was the overhaul of the Industrial Promotion Law. Emphasis has been on fomenting new activities in diversified geographical areas. This law sets forth guidelines for granting tax exemptions and reductions for periods up to ten years and, in certain zones, fifteen years.

The Mining Promotion Law was also enacted in 1972, filling a void in a country which has had no specific incentive to promote the mining industry. The law sets up alternative incentives that may be opted for by investors as opposed to firms.

In Area No. 3, to cope with inflation, fixed assets may be revalued as provided for in a new law. The revaluation is compulsory only for financial institutions and certain large enterprises. The percentages to be applied to the original cost are to be fixed by regulations. The new values are to be applied in computing depreciation allowances for income tax purposes.

Tax administration, that is Area No. 5, has also been the subject of amendments effective January 1, 1973. Further, the Executive Branch, exercising the authority granted by law, has consolidated the text of several tax laws including amendments thereto up to 1972. The new text will be cited as "Text Ordained in 1972" for each of the tax laws consolidated. These are the income, occasional gains, sales, inheritance and gifts, stamp, and substitute inheritance tax laws.
Concerning Area No. 1, local real property taxes, imputed rental value, and municipal service fees have been merged in a single real property tax. This levy is applied on the appraised value, at a 4% rate.\textsuperscript{14}

New rules to aid exporters of copper have been enacted. The scale of royalties paid in lieu of export duties and income taxes has been revised. Rebates against this royalty will be maintained until January 31, 1974. Exports of copper are exempt for five years, beginning July 28, 1972, from the payment of commissions to the Mining Bank of Bolivia.\textsuperscript{15}

The exploitation of Hydrocarbons has been regulated under new legislation. Oil deposits belong to the State and will be explored and exploited by Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), a governmental agency. YPFB may act directly or may enter into association, operation or service contracts with national or foreign individuals or legal entities. Upon the termination of the contract, all assets used by the company revert to the Government. The taxing provisions of the statute include departmental and national extractive royalties equivalent to 11% and 19% of production, respectively. These royalties are paid in lieu of income tax on business profits and total income tax. Service contractors are subject to the income tax, but special rules apply to payments abroad and depreciation allowances. Other provisions call for exemptions from import and export duties, sales tax and future direct taxes for YPFB, operating contractors and service contractors.\textsuperscript{16}

Exports of cotton will now be subject to a 20% tax on their FAS value.\textsuperscript{17}

A new tax on the net value of exports of minerals, metals, oil, and other goods, has been established. The rates range between 15% and 40%.\textsuperscript{18}

Under a new statute purporting to consolidate existing laws and regulations governing the sales tax in force since June 1, 1971, the 10% rate levied on certain goods regarded as luxury items has been eliminated. The 5% general rate is maintained. The new law became effective on August 1, 1972.\textsuperscript{19}

Within Area No. 2, national and foreign private investment and reinvestment in industry, mining, agriculture, cattle raising, renewable natural resources exploitation, construction and tourism are governed by a new Investment Law. New enterprises declared entitled to the benefits
of the law will enjoy up to 100% exemption from import duties and additional tax on imports and from national and local taxes on construction. Interest on domestic or foreign loans, the proceeds of which are invested in approved enterprises, will be free from income tax. Sales and production taxes will not apply to the output which is exported. Special accelerated depreciation of fixed assets is also granted.

Profits of domestic enterprises applied to the purchasing of new shares issued by companies wholly or partially owned by foreign capital will be exempt from income tax until the national equity reaches 51%. The exemption of reinvested profits has been retained. Existing enterprises will enjoy tax benefits with regard to their exports.\(^{20}\)

To cope with inflation, a mandatory revaluation of fixed assets has been decreed as part of a plan begun in October, 1972 for Monetary Stabilization for Development. Imported goods are to be revalued by 60%; buildings and domestic goods, 20%. Such revaluation is subject to a 5% tax.\(^{21}\)

In Area No. 6, two model treaties to avoid double taxation promulgated by the Cartagena Agreement Commission have been approved.\(^{22}\)

**BRAZIL**

In the first area, i.e. fiscal policy, important changes in the income tax law applicable to individuals were introduced effective January, 1972. The amendments relate to withholding of tax on salaries, withholding of tax on payments of fees by legal entities, limitations on the amount of interest on personal debts that may be deducted, and deduction of expenses connected with professional activities.\(^{23}\)

There were no basic income tax amendments in 1972 other than updating the brackets of income of individuals subject to the progressive tax.

Also within the fiscal policy area, consolidated regulations under the I.P.L. tax have been released.\(^{24}\)

Further, under the authority of a recent decree-law, the industrialized products tax rates on a wide range of essential processed foods and educational material have been reduced to zero. Tax credits for raw materials used in manufacturing such foods have been eliminated.\(^{25}\)
In Area No. 2, legislation favorable to foreign loans was enacted. Subject to proof of their qualification as loans in the national interest, income tax on interest and commissions related to such foreign loans may be refunded, reduced, or waived by the Minister of the Treasury.26

Brazil is also pushing for increased exports of industrialized products. Thus, a decree-law was passed providing that firms or groups of firms that develop special export programs will qualify for import duty, industrialized products and income tax benefits under a new law, but forfeit the tax benefits granted under current legislation. The aggregate value of goods imported duty-free and industrialized products tax-free under this law, may not exceed one-third of the net value of the manufactured products exported annually. Dividends attributable to the exportation of industrialized products may be excluded from taxable income as well as from excess profits subject to excess profits tax.27

Moreover, Brazil is also pushing for increased exports of minerals and metals. Accordingly, a decree-law was passed providing that mining companies which export at least one half of their output to their foreign parent company may deduct profits from exports for normal income tax purposes. But there is a condition to be met—the majority of the voting capital must be Brazilian.28

Exporters received a further benefit. Subject to approval by decree, on a case-by-case basis, importers of "industrial complexes" which are in operation in the originating country will be exempt from import duties and the industrialized products tax, if the equipment is used essentially to produce goods for export.29 This exemption from import duty and the industrialized products tax allowed for used industrial complexes has been implemented by a new decree-law and regulations thereunder. These statutes spell out the conditions under which the goods produced with the duty-free equipment may be sold within the country, Such sales will be treated as imports.30

Lastly, fishing incentives were extended so that up to and including the year 1977 (1976 taxable year), fishing enterprises and manufacturers of fishing equipment will continue to be entitled to import boats and fishing equipment and tools free from custom duties and industrialized products tax. No federal taxes and assessments will be levied on processed fish until above year. Also up to that year, every legal entity may invest in qualified fishing projects up to 25% of the income tax payable by them, and fishing enterprises will remain totally exempt from income tax.31
Referring to Area No. 3, Brazilians seem to have learned to live with inflation. It is well known that the cruzado values contained in the income tax law are adjusted every year in accordance with the cost-of-living index. A Treasury Portaria has fixed at 1.15 the coefficient for taxes payable in 1973 for the taxable year 1972,32 and a decree-law has set the new brackets of taxable income of individuals and the allowance for dependents.33

With regard to Area No. 6, a peculiar feature of Brazilian tax law is the awareness of jurisdiction-to-tax conflicts. Three treaties to avoid double taxation and prevent tax evasion were promulgated last year: one with France,34 another with Belgium,15 and the third with Finland.36

CHILE

In the area of Fiscal Policy, tax surcharges were imposed at the outset of 1972. The 17% tax levied on business income (industry, commerce, mining, fishing and banking,) income from brokerage and construction and any other income not expressly mentioned in the law or exempt, will be paid with a 15% surcharge for 1972, if the taxpayer's capital exceeds, 2,000,000 escudos. The surcharge applies also to the tax payable in lieu of income tax by large mining companies. The 20% tax levied on corporate directors' remuneration is to be paid with a 30% surcharge for 1972. A 10% surcharge will apply to the real property tax payable in 1972.37

Exercising the authority granted by the Income Tax Law, the Executive Branch has increased the 40% tax rate on certain royalties and technical assistance fees derived by non-residents. For one year beginning January 1, 1972, a 50% rate will be levied on those items connected with printing, clothing and furniture-manufacturing industries, a 60% rate on those connected with the production of wines and liquors, and an 80% rate if connected with the production of cosmetics, perfumes and toiletries.18

Substantial changes have been introduced in the Income Tax Law in connection with the taxation of earned income of resident individuals. Wages, salaries and retirement pensions will be subject, beginning January 1, 1973, to a new progressive rate from 10% to 65% applicable to various brackets of taxable income described in terms of up to 5 to over 80 "minimum vital salary" per month. The personal exemption is 10%
of a minimum vital salary and the exemption for dependents decreases from 20% to 5% of a minimum vital salary, depending on the number of dependents. The tax is withheld at the source. Incomes of a minimum monthly salary are exempt, and those up to two minimum salaries are subject to 3.5% which was the old rate for all earned income.19

A new sales tax took effect on January 1, 1973, replacing the previous cascade tax. The new sales tax has combined rates in an effort to lessen the pyramid effect of the cascade tax. The new tax applies as follows:

1. Sales of producers and importers directly to the public, rate 21.5%.
2. Sales of producers and importers to small businessmen, rate 21.5%.
3. Sales of producers or importers to other businessmen, rate 17.5%.
4. Sales from one producer to another for production processing, rate 8%.
5. Sales of business men to the public, rate 4%.40

Most of the fixed rates of the stamp tax were revised effective May 12, 1972, by increasing all fractions of the escudo to the nearest whole escudo. Rates resulting from adjustment made henceforth in accordance with the cost-of-living index are to be rounded off if they show fractions of the escudo.41 Both the fixed rate and the proportional rates were also increased towards year end in an overhauling of the stamp tax law.42

Exercising authority granted by Congress, the Executive Branch has issued several decrees with force of law fixing a single sales tax on the first sale of various products, such as liquor, cosmetics, records, radio receivers, custom jewelry, appliances, luxury goods, films and apple cider. The rates range from 22% to 52.5% of the sales price.43

Among promotional measures for economic development, the Rules of Multinational Enterprises and Subregional Capital Treatment and the Rules on Investments by the Andean Development Corporation laid down by the five countries which are signatories of the Andean Agreement for Subregional Integration have been approved.44
With regard to Area No. 3, it can be noted that Chile is so plagued by inflation that it has created a standard whereby values for tax purposes are adjusted annually, or as it happened last year, twice within a year. The standard is the "minimum vital salary" fixed for commercial and industrial workers of the Department of Santiago. The 1,016.96 escudos salary fixed at the beginning of the year was upped to 2,033.92 escudos from October 1, 1972. The latter applies now for all tax purposes until September 30, 1973.

Rampant inflation also forced the authorities to adjust real property assessments. The factor applied was 21.1% on urban property and 8% on farm land.

A tax administration principle, novel to the Chileans, was introduced near year end in the form of payment of estimated tax by "First Category" (business income) taxpayers. The law establishes twelve monthly provisional payments based on the income earned at the end of the fiscal period. These payments also cover the global complementary tax and any additional tax for partners. After the first quarterly payment, the individual may suspend the remaining payments if he is able to show losses in the first quarter.

COLOMBIA

In Area No. 1, there have been no enactments dealing with income tax. However, on August 31, 1972, the Administration submitted to Congress two bills amending several provisions of the current Income Tax Law and so-called complementary taxes. Under the amendments, corporations and foreign companies would be exempt from the excess profits tax; partnerships and limited liability companies would be subject to income tax at higher rates; corporations would be allowed to reinvest up to 5% of net income tax-free in fixed assets. Personal exemptions, non-business deductions, and the amount of non-taxable dividends to which individuals are entitled, as well as the basic exemption for net worth (patrimony) tax, would be increased. Individuals would also enjoy a credit of up to 10% of the tax due on earned income for investments in a recently-created National Investments Fund.

Congress is also considering two bills creating new taxes on real property. Owners of rural property would be subject to income tax on the imputed income from the land. Such income would be 10% of the
appraisal of farm land and 4% of the appraisal of grazing land. In addition, a 1% tax would be levied on all real property, to finance an elementary school program.\textsuperscript{52}

Ground rules on Foreign Investments and know-how stand out in Area No. 2. Guidelines for authorizing or denying registration of foreign technical assistance and contracts of similar nature for the investment of foreign capital have been released. The guidelines are also applicable to contracts for the sale or transfer of intangibles such as copyrights, management assistance, patents and the like. Remittance of profits may not exceed 14% of the registered capital per year.\textsuperscript{53}

For the purpose of stimulating savings to finance housing construction, the purchasing power of principal invested or loaned will be protected against inflation by periodic revaluations based on the national index of consumer prices. The new value will not be treated as income of the investor or lender. The tax exemption granted since 1965 to savings of up to 150,000 pesos and to interest thereon will not apply to transactions entitled to revaluations.\textsuperscript{54}

Under a statute regulating tourist resources, tourist projects located within areas declared to be tourist resources will qualify for maximum tax benefits. These benefits consist of receiving tourist development certificates for certain percentages of an investment in tourist facilities.\textsuperscript{55}

In Area No. 6, the Colombian Institute for Social Security, exercising the power vested in it by the statute which in June 1971 revamped the social security system, has fixed the amount of employer and employee contributions to the system, the maximum insurable salary, and categories of insured workers. Beginning January 1, 1973, the employer contribution will be 4.66% for illness and maternity, plus 4.5% for disability, old age and death. The contribution for work accidents and occupational diseases remains unchanged at .28% to 7% of payroll, according to the degree of risk. The maximum insurable monthly salary is 14,610 pesos.\textsuperscript{56}

COSTA RICA

Among the changes under Area No. 1, substantial reforms have been introduced in the Income Tax Law. New rates ranging from 5\% to 40\% apply on the taxable income of legal entities. Income received by non-residents will be subject to withholding at a 10\% rate on interest income, 15\% on dividends and after-tax branch profits, and 20\% on royalties and any other income paid or merely credited abroad. Individuals will
pay progressive rates ranging between 5% on income not over 5,000 colones and 50% on income exceeding 350,000 colones.\textsuperscript{57}

Fundamental changes with respect to the general sales tax rate and to specific consumption taxes became effective on March 11, 1972. The old general 5% rate has been maintained, but the 10% and 15% rates applicable to certain goods and services listed in Annex I to the old law have been repealed. The 5% rate applies on sales of goods and services subject to a new consolidated specific consumption tax, as well as to liquor, beer and cigarettes on which a 10% excise tax is levied.

Luxury goods ready for consumption will be subject to a consolidated selective consumption tax payable by the importer or by the manufacturer on the importer’s or manufacturer’s cash selling price.\textsuperscript{58}

Rules for collection and administration of the annual tax on real property have been revised. The tax applies on the value of all the properties owned by a taxpayer. The rate is progressive, starting at .30% if the aggregate value of the property does not exceed 250,000 colones and reaching 1.05% should such value exceed 3,000,000 colones.\textsuperscript{59}

DOMINICAN REPUBLIC

The main development in Area No. 1 is a new Capital Gains Tax. Gains from the sale, exchange or involuntary conversion of real estate not held in the course of a trade or business will be subject to this new tax, effective since March 30, 1972.

The tax rate is 20% on the net gain, except if the taxpayer resides abroad, in which case the rate is 30%. Losses may be offset against gains realized during the following year.\textsuperscript{60}

A tax on excess profits derived from exports of sugar to the world market at extraordinarily high prices or to the United States under additional quotas has been created. The rates are the same as those of an earlier tax, now superseded, levied on similar profits.\textsuperscript{61}

ECUADOR

A most unusual development took place in Ecuador with regard to Area No. 1 — the corporate income tax rate has been lowered — i.e., the
tax rate on undistributed earnings of domestic corporations was reduced from 30% to 20%. The new rate will apply to earnings derived on or after January 1, 1972.62

The annual per capita tax levied on domiciled individuals has been repealed and in its stead a new tax based on the overall income of each person has been created.63

In Area No. 4, a new Social Security Code has been enacted, but is suspended at present. The protection is rendered through two systems, namely, the general system and the complementary system. Under the former, basic and uniform protection, consisting of the same benefits currently in effect, is offered to active participants whether salaried or self-employed. Under the latter, additional benefits are granted, financed by contributions to be borne by the beneficiaries. Employer and employee contributions have not been changed.64

In the field of tax administration, important changes have occurred. Pursuant to new legislation, export duties, income tax and royalties payable by oil companies will be withheld by the Central Bank, from the proceeds received for the oil exported. The final assessment of the tax liability at the end of the fiscal year is to be made in accordance with the general laws.65

In Area No. 6, the two model treaties to avoid double taxation promulgated by the Cartagena Agreement Commission have been approved.66

EL SALVADOR

In Areas No. 1 and 5, it may be observed that several provisions of the Income Tax Law dealing with the administrative procedure for the collection of tax have been amended.

These amendments relate to the filing of tax returns, the determination of deficiencies, statute of limitations for the assessment of tax and fines, taxpayers' remedies, and withholding of tax on occasional gains and on certain employment benefits. Drawing and lottery prizes and other occasional gains realized by nonresident taxpayers continue to be subject to withholding at a 38% rate.67

Labor and social security indemnities are exempt from income tax under a new Labor Code. All contracts, petitioners, receipts and certificates relating to labor matters are exempt from stamp tax.68
Under Area No. 6, a Taxpayers' Registry for individuals, trusts, estates and legal entities has been created as of September 14, 1972. The Registry will include those who pay stamp tax and taxes on income, capital, real property transfers, inheritances, gifts, business licenses, and imports and exports, and also payors of all other fiscal contributions, if their registration is required by law or regulations.

GUATEMALA

In the field of income tax law, an important order dealing with foreign loans became effective August 4, 1972. The order construes the exemption granted by the income tax law to interest on foreign loans repayable in more than eighteen months.

Another important order of the Internal Revenue Bureau has fixed the annual tax payable by corporations. This tax, based on the net worth of the companies and deductible for income tax purposes, must be paid by domestic and foreign enterprises alike.

In Area No. 2, pursuant to amendments to the private finance company's law, the interest yielded on securities issued by such companies will be exempt from income tax.

In Area No. 3, another provision which is common to many countries, that is, the updating of real property appraisals, may be observed, e.g., real property within Guatemala City will be reappraised. To that effect, the values established by the Municipality of Guatemala, if final and "higher" than those recorded by the Income Tax Bureau, will be used.

In Area No. 5, the organization and powers of the General Bureau of Internal Revenue and of the General Bureau of Customs have been revised in order to conform to the new structure of the public finance sector.

HONDURAS

In Honduras, the most important development in Area No. 1 is a new tax on undeveloped land, which progresses from 3% of the assessed value of the property for the first year, through 8%, 15% and 25% for each of the three subsequent years, to 40% of that value for the fifth year and each year thereafter. Rural property will be deemed to be undeveloped if it is abandoned or exploited for farming, cattle raising
or forestry at a yield lower than the average, within the same zone, determined by the National Agrarian Institute for Comparable Land.

In Area No. 2, where incentives normally promote the economy, we encounter a restraint in that tax exemptions and reductions, granted to qualified enterprises under the industrial promotion law or under the Central American Agreement on Tax Incentives for Industrial Development, have been drastically curbed since December 31, 1971. Import duties and consular fees will be gradually payable in full over a six year period from the date an enterprise becomes eligible for the exemption, and income tax payable from the taxable year 1971 will be exempt only by 50% thereof. The incentives granted in Honduras were to tourist enterprises.

A recent decree-law provides that individuals who, and legal entities foreign or national which invest in construction, exploitation, expansion or modernization of hotels, or tourist-connected services, will enjoy among other tax benefits, exemption from income tax up to 100% for five years and 50% for another five years if the enterprises are established in Tegucigalpa or San Pedro Sula. The exemption is 100% for ten years for enterprises established anywhere else in the country. Strangely, the exemptions are not available to a tourist enterprise in any year in which its net profit exceeds 20% of the invested capital.

Honduras has also made changes in its social security system. The system enacted late in 1971 was superseded on February 16, 1972. Among the changes are the enforceability of the system with regard to coverage of disability, old age and death risks which had been in abeyance under the old law. Contributions by the employer are 7% of salaries and by employees 3.5% of salary.

As far as administrative practices are concerned, it is well to note, that the Director of Taxation was authorized to accept advance payment of income tax for the fiscal year 1972, although due in 1973. This seems to have been the answer to a request by someone wanting to show a tax paid or accrued under Section 901 of the U. S. Internal Revenue Code.

MEXICO

Substantial reforms to the income tax law became effective on January 1, 1972 and other substantial reforms to that law came into effect on January 1, 1973.
Under the amendments passed at the end of 1971, the undistributed profits tax was repealed, retroactively, to January 1, 1971. In essence, it was never operative. Royalties, fees, and other income items derived by non-residents were taxed at progressive rates but were subject to withholding at a 20% rate on account of the final tax. Taxation and tax rates applicable to interest income have been revised. Other changes relate to computation of taxable income, e.g., new rules on inclusion of gains and losses from the sale or exchange of real estate used in business, depreciation allowances, accelerated depreciation, computation of taxable distributions, disguised dividends, and so forth.

Among changes on the taxation of individuals were higher progressive tax rates on overall income, 100% increase in personal exemptions, inclusion in overall income of dividends, interest and gains from the appreciation of Mexican securities with certain limitations, the elimination of the standard deduction, and new tables for withholding of tax at the source.

The law that became effective on January 1, 1972 dealt with almost all of these issues. For instance, with regard to the withholding of income subject to the general rate which is remitted abroad, there is no more 20% limitation. The withholding is computed on accumulated payments. The gains from the sale of real property now apply to all property not only urban property as under the old law. One important change affecting foreign lenders is that the tax on interest from loans for financing machineries from abroad has been increased to 20%, against 10% throughout 1972.

The same tax reform law amends the gross receipts tax. The most important change in this tax is the rate, i.e., a combined 3%, between federal and local rates, is now a general rate of 4%. Income received by brokers and agents is subject to 10%, and a similar rate is applicable to the sale and lease of luxury items.52

Beginning January 1, 1972, the first sale of new rugs and electronic appliances has been subject to new taxes. The tax on rugs amounts to 10% of the selling price. The tax on tuners, high fidelity consoles, amplifiers, television sets, tape recorders, record players and the like is levied at a 7% rate on the selling price. Taxed goods exported or sold within free zones are exempt.53

As of January 1, 1973, changes have been introduced in the stamp tax law, the tobacco tax law, the soft beverage tax law, and on the law levying a tax on diesel vehicles.54
In Area No. 2, the most important developments were the guidelines for the promotion of enterprises. The guidelines were passed in 1971 implicitly superseding the 1955 law relating to new and necessary enterprises. Regulations for the promotion of industrial enterprises became effective July 21, 1972 under those guidelines. Tax incentives, bank loans, and technical advice will be granted to enterprises for periods from two to ten years, depending upon their activities and location. For application of the benefits, the country is divided into three zones. The tax incentives include reductions in import duties, stamp, first sale and income taxes, accelerated depreciation on equipment for income tax purposes, and tax-free reinvestments. Other provisions deal with requirements for obtaining the benefits, e.g., 51% Mexican ownership.

In 1972 a new fishing promotion law was enacted. Commercial enterprises will not be granted concessions unless they are organized within Mexico, issue only registered shares, have at least 50% of their capital owned by nationals, and employ as their managers only Mexican citizens. Actual tax benefits are to be established by the Secretary of the Treasury and Public Credit.

Subject to several limitations, the manufacture of automobiles and auto parts has also been favored. Main incentives consist of rebates for the sales taxes paid on parts used to manufacture cars which are actually exported.

In the area of tax administration, provisions of the fiscal code relating to the auditing of financial statements by public accountants were among those amended as of January 1, 1972. The ones amended as of January 1, 1973 deal with tax enforcement and penalties.

NICARAGUA

In Area No. 1, a special tax on special and regular gasoline has been in force since May 2, 1972. Regular gasoline will pay 29¢ of a cordova per liter and the special, 32¢.

Concerning Area No. 2, exports of industrialized products have been favored. Those out of the Central American area will benefit from tax rebates according to a decree that became effective on April 18, 1972. The Executive Branch will grant tax benefits to the extent and for the length of time it deems appropriate after taking into account the economic importance of the enterprise to the country.
An important development with regard to tax administration, was customs administration. The powers and composition of the Central Customs Commission have been established by decree. Further, a commission has been charged with administering import and export duties, and the tariff and duty privileges granted to enterprises under the Industrial Promotion Law and the Central American Convention on Fiscal Incentives.\textsuperscript{93}

**PANAMA**

In Panama, legislation in the area of income tax policy has resulted in a change in taxation of royalties. Two provisions of the Fiscal Code dealing with the income tax were modified as of July 24, 1972, e.g. royalties paid or credited abroad by persons established in the Colon free zone will not be deductible by the payor, but will be exempt in the hands of the recipient.\textsuperscript{94}

Other changes relate to excise taxes. New and higher indirect taxes were imposed. Taxes on rooming houses and leisure boats have been enacted, and the tax on rooming houses ranges from 8 to 10 balboas per day for each room. Taxes on liquor, beer, cigarettes and gasoline have been increased. The tax on gasoline is the highest — 60% of the retail price.\textsuperscript{95}

In Area No. 2, the Securities Market Law has been amended. Gains derived by any taxpayer from the sale of stock and securities of corporations registered with the National Securities Commission and 25% or more of whose assets are invested in the country, are exempt from income tax. Interest on securities issued by such corporations will be subject to a 5% single tax to be withheld at the source, but interest so taxed need not be reported in the income tax return.\textsuperscript{96}

Tourist projects have also been favored. Income tax exemption is granted to profits from tourist operations for a thirteen-year period, to interest from loans to tourist enterprises, and to gains derived by contributors of appreciated property to the capital of tourist enterprises. And a three-year carry-forward of net operating losses will also be allowed. Eligible enterprises in special tourist zones will also enjoy exemption from import duties, property taxes and taxes on capital.\textsuperscript{97} The Balboa district has been declared a special tourist zone.\textsuperscript{98}

In Area No. 4, the Social Security Fund has been vested with powers to enforce social security contributions.\textsuperscript{99}
PARAGUAY

Important changes took effect on February 27, 1972 in the income tax law, including a higher tax rate for domestic and foreign legal entities, and a 5% tax on gains from sales of real estate. Domestic and foreign companies, branches of foreign companies and foreign sole proprietorships will be subject to a rate progressing from 25% on the first 500,000 guaranies of taxable income from Paraguayan sources, to 30% on the excess over five million guaranies.¹⁰⁰

The above income tax does not affect cattle raisers, in that cattle raising industries will be subject to a 200-guaranies tax per head of cattle in lieu of income tax.¹⁰¹

In Area No. 2, the financing of low-cost housing has received encouragement. The system is comprised of a National Bank for Savings and Housing Loans as well as private savings and loans companies. These companies may be organized as corporations or as mutual associations and will be supervised by the Bank. At least 51% of their capital must belong to nationals. The Bank, as well as the mutual companies (not the corporations) will enjoy exemption from income, economic activities, stamp, sales and business license taxes and import duties. Furthermore, interest from loans guaranteed by the new National Bank will be free from income tax.¹⁰²

In Area No. 5, an important development took place in the creation of the Taxpayers' Register, effective January 1, 1972. Upon registration, a number is assigned and a card is issued to each individual and to each establishment of a legal entity or company.¹⁰³ The Income Tax Bureau has released rules for the registration of income tax payers. For instance, among the documents which companies, including branches and agencies of foreign companies are required to attach to the application for registration is a legalized copy of the articles of incorporation or company agreement as well as of the authorization to do business within the country. The latter must be duly recorded in the Public Registry of Commerce.¹⁰⁴

PERU

In Peru there was a good mix of Areas No. 1 and No. 3. Recently introduced is a system similar to that used in Chile, namely, the "minimum vital salary for the Capital" as a measure of personal exemptions. Thus, the minimum personal exemption is 1¾ths of a "minimum vital
salary" and the personal deductions are 1 \textquoteleft\textquoteleft minimum vital salary\textquoteright\ for the spouse, $\frac{3}{4}$ for each child, $\frac{3}{8}$ of a \textquoteleft\textquoteleft minimum vital salary\textquoteright\ for other dependents, and so on.\textsuperscript{105}

The above tax affects individuals only. However, enterprises have also been the subject of legislation. Four taxes — on stock capital, on the value of real property, on imputed rental value, and the business license tax — have been merged into one, the tax on enterprises' net worth. This new tax is deductible for income tax purposes. The tax base is the net worth of the company and the rate ranges from 6 per thousand to 12 per thousand.\textsuperscript{106}

Another major development in the tax policy area has been the enactment of the value added tax on goods and services. It replaces the former 5\% sales tax that was generally applied to every transaction in which goods were sold. For the production and trade sectors, the tax is applied to producers and wholesalers on the sale value and to importers on the customs CIF value. The amount of tax ranges, according to product, from 1\% on basic medicine to 25\% on luxury goods.\textsuperscript{107}

Several incentive statutes exist in Peru, the most important of which is the one granting tax concessions to encourage non-traditional agricultural exports, whether or not industrialized. Under that statute, such exports will be exempt from export duties for a period of twelve years. Exporters will also receive rebates for taxes levied on the extraction and/or processing of the goods and on the importation of raw materials or supplies used in such processing or extraction.\textsuperscript{108}

Tax incentives have also been granted for the merging of finance companies\textsuperscript{109} and for domestic motion picture enterprises. As of March 28, 1972, motion picture enterprises would enjoy various tax benefits for a period of fifteen years, provided the conditions set forth in a new statute are met.\textsuperscript{110}

As regards Area No. 6, it may be noted that Peru has approved the Model Treaty to avoid double taxation between persons domiciled in any member country signatory to the Cartagena Agreement.\textsuperscript{111} As mentioned at the outset, this is one of the two model treaties to avoid double taxation approved by the Cartagena Agreement Commission.

URUGUAY

In Uruguay, the most important development in the Fiscal Policy Area was the enactment of a new net worth tax which, in addition to the net
worth tax levied in 1971 and 1972 on legal entities and individuals, again required these taxpayers to pay a “once only” additional net worth tax in an amount equivalent to that paid by them during 1971.\textsuperscript{112}

The tax on travel abroad was repealed.\textsuperscript{113} That tax was a 20% surcharge applied to the purchase of foreign exchange to pay for tickets to travel abroad.

In Area No. 2, exporters have been encouraged by the establishment of a system conducive to the increase of exports. Tax rebates were granted for three years to exporters who increased the volume of exports over that of the preceding calendar year.\textsuperscript{114} The decree establishing that system was superseded a few months later, but the system was substantially maintained.\textsuperscript{115} The Ministry of Industry and Commerce implemented the system by passing resolutions which fixed the percentages of the rebates. Depending on the product, the percentages range between 36% and 12% of the FOB value of the export.\textsuperscript{116}

Within Area No. 3, due to inflationary pressures, personal exemptions for income tax purposes had to be updated. These exemptions were updated by applying to the 1969 values, the coefficient representing the cumulative cost-of-living increase for 1969 and 1970. Thus, in the taxable year 1971 (tax payable in 1972), the personal exemption for single individuals was 250,000 pesos, for heads of household 500,000 pesos, and for each dependent, 100,000 pesos. There is also an additional deduction allowed to individuals deriving income from employment. This was maintained at 200% of the updated personal exemptions.\textsuperscript{117}

Another result of inflationary pressures was the updating of rural property appraisals. Accordingly, current values are to be multiplied by the factor fixed for each of the nineteen departments of the country by a recent decree.\textsuperscript{118} The new appraisals apply to the computation of the tax on imputed minimum income from farm land and to the tax on real property transfers.

Regarding tax administration, there were several changes dealing with the collection and application of various taxes and penalties.\textsuperscript{119}

VENEZUELA

Two significant developments occurred in the income tax law. As for one, the Fourth Regulations under the Income Tax Law were passed, providing that the investment credit granted to the enterprises specified
in the statute will be allowed in the fiscal year in which the fixed assets already produced, built or installed are actually incorporated to the production of income. This is an issue that has been before the Supreme Court for those taxable years governed by the law in force until the end of 1966. The new law that became effective on January 1967, which is the current law, wasn't more clear on the subject, so these regulations are helpful.

The other development is a tax break for savings and loans associations. The current 1% additional exemption from income tax for dividends received by shareholders of savings and loans companies has been increased by another 1%.

A very important change occurred in the import duty field. A new tariff law has been passed replacing the old system of basing import duties on gross weight and moving away from import licensing. In most cases, ad-valorem duties are below 100% although, in some instances, levels rise to as high as 300%. Automobiles, for instance, will pay 135%. Though the tariff was slated to go into effect on February 1, 1973 on some items, and on April 1st on others, it is now to become effective on March 1st for items not previously subject to import license and on May 1st for those 600 previously under license.

So far, the economy of Venezuela has been pretty stable, with the result that there are practically no incentives for any particular activity. There are no measures to cope with inflation, but mention of an administrative measure dealing with the payment of estimated tax is indicated. Exercising the authority granted by the Income Tax Law, the Executive Branch has issued regulations governing the payment of estimated tax by legal entities engaged in mining, oil and related activities. Only 85% of the estimated tax is to be paid.

CONCLUSION

The year 1972 saw many legislative changes in the tax area in Latin America. The year 1973, and no doubt subsequent years, will also produce many significant changes in this important area of the law. In view of this ever-changing tax picture a close check on pertinent legislation and periodic check with local counsel appears mandatory for any concern doing business in Latin America.
NOTES

1Law 19409, December 31, 1971.
3Law 19414, December 31, 1971.
4Note 2, supra.
5Note 2, supra.
6Law 19415 and 19420, December 31, 1971.
7Note 2, supra.
8Note 2, supra.
9Law 19904, October 20, 1972.
10Law 19938, November 9, 1972.
12Law 20024, December 15, 1972, and Note 2 supra.
18Supreme Decree 10550, October 27, 1972; Regulations, Supreme Decree 10635, December 15, 1972.
19Supreme Decree 10530, June 30, 1972.
21Supreme Decree 10550, October 27, 1972.
28Decree Law 1240, October 11, 1972.
29Decree Law 1236, August 28, 1972.
30Decree Law 1244, October 31, 1972; Regulations, Decree 71277, October 31, 1972.
31Decree Law 1217, May 9, 1972.
32Portaria 283, November 17, 1972.
33Decree Law 1246, November 14, 1972.
34Decree 70506, May 12, 1972.
35Legislative Decree 76, December 1, 1972.
36Legislative Decree 86, December 5, 1972.
38Decree 1920, November 8, 1971.
39Law 17828, November 6, 1972.
40Note 39, supra.
41Note 37, supra.
42Note 39, supra.
43Decree with Force of Law: No. 7, September 29, 1972; No. 9, October 13, 1972; No. 11, October 30, 1972; Nos. 12, 13, 14, 15 and 16, October 31, 1972.
44Decree 281, June 6, 1972.
46Release, November 17, 1972, Mixed Central Commission for Salaries.
47Law 17713, August 31, 1972.
48Decree 2, January 2, 1972.
50Note 39, supra.
51Bills No. 30 and No. 34, August 31, 1972.
52Bills No. 4 and No. 46, August 31, 1972.
53Decree 1234, July 18, 1972; Resolution No. 17, July 19, 1972.
54Decree 677, May 2, 1972.
55Decree 757, May 6, 1972.
56 Decree 1036, June 20, 1972.
57 Legislative Decree 4961, March 10, 1972.
58 Note 57, supra.
63 Supreme Decree 23, January 10, 1972.
66 Supreme Decree 932, August 29, 1972.
67 Legislative Decree 438, December 8, 1971.
68 Legislative Decree 15, June 30, 1972.
69 Legislative Decree 79, August 29, 1972.
70 Order 4/72, July 14, 1972.
71 Order 16/72, November 30, 1972.
72 Legislative Decree 51/72, August 10, 1972.
74 Executive Order 5-72, February 16, 1972; Order, April 11, 1972, respectively.
75 Order 7, February 17, 1972.
76 Legislative Decree 129, December 30, 1971.
77 Legislative Decree 2, October 18, 1972.
78 Executive Order 193, December 17, 1971.
82 Note 81, supra.
83 Legislative Decree, December 24, 1971.
84 Note 81, supra.
86 Decree, July 19, 1972.
87 Fishing Promotion Law, May 10, 1972.
88 Executive Decree, October 23, 1972.
89 Note 85, supra.
90 Note 81, supra.
91 Executive Decree 75, April 27, 1972.
92 Executive Decree 332, April 14, 1972.
93 Executive Decree 18, July 26, 1972.
94 Decree 113, July 18, 1972.
96 Decree 30, February 24, 1972.
97 Decree 102, June 20, 1972.
100 Decree Law 51, February 25, 1972; Regulations, Decree 25552, April 10, 1972.
103 Decree 2047, June 17, 1971; Decree 20499, July 2, 1971.
104 Resolutions 87, July 12, 1972 and 89 of September 6, 1972, Income Tax Bureau.
105 Decree Law 19653, December 12, 1972.
106 Decree Law 19654, December 12, 1972.
108 Decree Law 19491, August 1, 1972.
113 Decree 181, March 2, 1972.
116Resolutions, October 13 & 17, 1972.
118Decree 285, April 20, 1972.
120Decree 974, May 10, 1972.
121Decree 910, March 15, 1972.
122Decree 1168, December 27, 1972.
124Decree 1038, June 14, 1972.