



## *Key Topics on China -Venezuela Business*

## 中国-委内瑞拉投资关键 考虑

**Tax overview  
July 2011**

**税务概述  
2011年7月**



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# *Agenda*

- **Choice of entity**
- **Registrations**
- **Restrictions on cross-border cash flows**
- **Key tax issues**
- **Individual taxation**

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- 投资主体选择
- 投资实体登记
- 跨境现金流的限制
- 要税务考虑
- 个人所得税

# *Choice of entity* 投资主体选择



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## *Choice of entity*

- **Corporation**  
**(Compañía Anónima “C.A.” or**  
**Sociedad Anónima “S.A.”)**
- **Limited Liability Company**  
**(Sociedad de Responsabilidad**  
**Limitada “S.R.L.”)**
- **Simple or Stock Limited Partnership**  
**(Compañía en comandita Simple o por**  
**Acciones)**
- **General Partnership**  
**(Compañía en nombre colectivo)**
- **Branches**
- **Consortium or Joint Venture**
- **Joint Venture Oil Corporations /**  
**(Empresas mixtas)**

## *投资主体选择*

- **股份有限公司**  
**(Compañía Anónima “C.A.” or**  
**Sociedad Anónima “S.A.”)**
- **有限责任公**  
**(Sociedad de Responsabilidad**  
**Limitada “S.R.L.”)**
- **简单或股份有限合伙企业**  
**(Compañía en comandita Simple o por**  
**Acciones)**
- **普通合伙企业**  
**(Compañía en nombre colectivo)**
- **分支机构**
- **联营体或合资企业**
- **合资石油企业**  
**(Empresas mixtas)**



*Registrations*

投资实体登记



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## *Registrations*

- **Foreign Investment Registration**
- **Direct foreign investments made in Venezuela must be registered with the Superintendence of Foreign Investments (SIEX) in order to be entitled to remit dividends or repatriate capital**
- **Tax Information Registry (RIF)**
- **Taxpayers must apply for registration with the RIF within the first month of incorporation or commencement of activities**
- **Mandatory registrations for labour purposes National Contractors Registry (RNC) Mandatory for entities contracting with State-owned companies**
- **Registration under Exchange Control Regime (RUSAD)**

## *注册流程*

- 外商投资登记
- 外国企业直接投资委内瑞拉时必须在国外投资监管局 (SIEX) 登记才会被批准汇出股息或返还资本金。
- 税务信息登记处 (RIF)
- 纳税人必须在注册公司或开始经营活动的第一个月内到税务信息登记处进行税务登记。
- 强制性员工登记 国家承建商登记处 (RNC) 与委内瑞拉的国有企业进行业务时必须向 RNC 注册登记。
- 外汇管制的登记 (RUSAD)



# *Restrictions on cross-border cash flows*

*跨境现金流的限制*

# *Restrictions on cross – border cash flows and pricing*

## **Exchange Control Regime**

- In February 2003, restrictions were established on the free convertibility of the Venezuelan Currency (Bs)
- Mechanisms available for the obtainment of foreign currency comprise:
  - Acquisition of foreign currency at the official exchange rate from the Government's office (CADIVI) as provided for in some of the Exchange Agreements for:
    - (1) import of goods;
    - (2) foreign investments (repatriation of initial capital, dividends, payments on royalties and use of trademarks, patents, licenses and franchises, as well as technology import and technical assistance agreements
      - However, in many cases these authorizations may be affected by long delays
      - Additionally, there is a long list of restricted items which do not have the possibility to obtain foreign currency at the official exchange rate
      - The official exchange rate has been set at Bs 4.30/1 USD

# 跨境现金流及定价的限制

## 外汇管制制度

- 2003年2月实施了对于自由兑换委内瑞拉币的限制法规。
- 获得外币的机制包括：
  - 外汇协定规定对于以下情况可以从政府机构 (CADIVI) 按照官方汇率兑换外币：
    - (1) 进口商品;
    - (2) 外国投资 ( 初始资本回流、派发股息、特许使用权和商标、专利、许可证以及经营权的使用费的付款，以及技术引进和技术支持协议 ) 。
  - 但是，通常批准时间可能较长。
  - 而且外汇管制法规制定了许多限制类项目是不能按照官方汇率兑换外币的。
  - 官方汇率被定为4.30委内瑞拉币：1美元。



# *Restrictions on cross – border cash flows and pricing*

## **Exchange Control Regime (Cont.)**

- Purchase of securities denominated in foreign currency through the System of Transactions with Securities stated in Foreign Currency (SITME)
  - An alternative to acquire foreign currency is through SITME which allows for the acquisition in local currency of securities issued by Venezuela denominated in foreign currency. This alternative is controlled by the Venezuelan Central Bank and is limited to certain types of transactions and up to USD 350,000.00 per month.
  - The average exchange rate for SITME is Bs 5.30 / 1 USD

# 跨境现金流及定价的限制

## 外汇管制制度 ( 续 )

- 通过外币证券交易系统 ( SITME) 购买以外币定价的证券
  - 获得外币的另一种方式是通过SITME以委内瑞拉货币购买由委内瑞拉发行的以外币定价的证券。这一方式由委内瑞拉中央银行控制，仅限于某些交易并且每月的交易额最高为35万美元。
  - SITME的平均汇率为5.30委内瑞拉币: 1美元。

# *Key tax issues* 主要税务考虑



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# Key tax issues

## Corporate Income Tax

- Venezuela's corporate tax compares to that of other Latin American countries
- Worldwide taxation applies for resident taxpayers
- Permanent establishment provisions
- Inflation Adjustment for tax purposes:
  - Added to or Subtracted from taxable income derived from operations. Subject to same tax rate applicable to the entity
- Net operating losses may be deducted from taxable income and carried forward against taxable income of up to three years, except for losses arising from inflation adjustment, which may only be carry forward for one year
- Losses incurred abroad can be only deductible from taxes associated with foreign source income. Carry back is not permitted
- Corporations domiciled in Venezuela, and corporations not domiciled in Venezuela with permanent establishment or fixed base in the country, are entitled to offset foreign tax credits

# 主要税务考虑

## 企业所得税

- 将委内瑞拉的企业税收与其他拉丁美洲国家的企业税收进行比较
- 居民纳税人就全球应税收入纳税
- 常设机构的规定
- 出于税务目的的通胀调整：
  - 添加或从营业所得的应税收入中扣除。适用企业所得税税率。
- 净营业亏损可能可以从应税收入中扣除并且可以结转以抵消最多三年的应税收入，但是因通胀调整导致的亏损，其结转期只有一年。
- 境外亏损只能抵减境外利润。亏损不可向前追溯调整。
- 委内瑞拉的居民企业和在委内瑞拉设立常设机构或固定基地的非居民企业可享受境外已纳税抵免。

## Key tax issues

### Corporate Income Tax (Cont.)

- Special 10% investment tax credit is granted on the value of new investments in fixed assets (excluding lands) made by those legal entities obtaining income from industrial and agro-industrial activities, construction, electricity, telecommunications, science, technology, and generally any industrial activity that represents an investment in advanced technology. This tax credit may be taken if such new investments are dedicated to effectively improving productive capacity or creating a new enterprise.
- An additional tax reduction of 10% is available for investments in assets, programmes, and activities aimed at the conservation and protection of the environment.
- Thin capitalization rules were introduced in 2007. Interest paid to related parties is deductible if loans do not exceed the equity for tax purposes (1/1 Ratio)
- Income derived from investments in Low Tax Jurisdictions is considered taxable in the period in which is caused, even if the income, dividends or earnings resulting from such investments were not distributed

## 主要税务考虑

### 企业所得税 (续)

- 工业、农产品加工业、建筑业、电力、电信、科学研究、科技业以及任何与投资高科技相关的工业活动的合法企业新投资的固定资产（不包括土地）可以享用10%的投资税务优惠。如果新投资致力于有效提高生产能力或创建一个新企业，就可能可以适用这项税务优惠。
- 以节能环保为目的投资的资产、项目和活动可以额外减低税率10%。
- 2007年，委内瑞拉引入了资本弱化规则。从税务角度，如果债务与股权的比例为1：1，支付给关联方的利息可以作为税前列支。
- 从低税管辖区获得的投资收入将被视为当期应纳税收入，无论该收入、股息或其他投资所得是否已进行分配。



# Key tax issues

## Corporate Income Tax (Cont.)

### Applicable tax rates

- General rate applicable to corporations – Progressive Tariff N° 2:
  - Up to 2,000 TU: 15%
  - From 2000 TU to 3000 TU: 22%
  - From 3000 TU: 34%
- Income for oil exploitation and certain related activities is taxed at a flat rate of 50%. Joint venture oil corporations are also subject to a 50% CIT rate.
- Corporations engaged in the exploration and exploitation of non-associated gas (and the processing, refining, transportation, distribution, commercialization, and exportation of the gas and its components) or companies exclusively engaged in the refining of hydrocarbons or improvement of extra heavy oil, are subject to Tariff 2.

**The current Tax Unit (TU) value is Bs. F. 76**

# 主要税务考虑

## 企业所得税（续）

### 适用税率

- 适用于企业的通常税率 – 累进税率 ( Tariff2):
  - 低于2,000 税收单元:15%
  - 高于2,000税收单元但低于3,000 税收单元: 22%
  - 高于3,000税收单元: 34%
- 从事石油勘探及相关业务获得的收入所适用的所得税税率为50%。合资石油企业的企业所得税税率同样是50%。
- 非油田伴生天然气的勘探和开采公司（处理、提炼、运输、分送、商业加工和出口天然气及其组成成分）或专门从事提炼碳氢化合物或改善高浓度石油的公司应按照税率2（ Tariff2）进行纳税。

**目前的税收单元（TU）为Bs.F.76。**

# Key tax issues

# 主要税务考虑

## Corporate Income Tax (Cont.)

### ○ Transfer Pricing

- The Venezuelan transfer pricing regime is based on the arm's length principle developed by the Organization for Economic Co-operation and Development (OECD)
- Accordingly, income and expenses related to cross-border transactions between related parties must be at arm's length
- The transfer pricing rules define related parties and set forth permitted methodologies. Taxpayers are required to verify the existence of arm's length pricing by conducting a transfer pricing study. Prices that do not reflect arm's length amounts may be adjusted by the tax authorities

## 企业所得税 (续)

### ○ 转让定价

- 委内瑞拉的转让定价制度基本上遵照经济合作组织 (OECD) 提倡的交易原则。
- 因此，关联方之间的交易所涉及的相关收入和费用必须遵循独立交易原则。
- 转让定价规则对关联方及许可的关联方交易方法有所规定。纳税人需要进行转让定价的分析以证明其独立定价。非独立定价的价格可能被税务机关进行调整。



## *Key tax issues* 要税务考虑

### ○ Special taxes - contributions on oil activities

Master Hydrocarbons Law	Agreement of creation of mixed companies	Other special taxes / Contributions
<ul style="list-style-type: none"><li>• Royalty</li><li>• Superficial tax</li><li>• Own consumption tax</li><li>• General consumption tax</li><li>• Extraction tax</li><li>• Export registration tax</li></ul>	<ul style="list-style-type: none"><li>• Special advantage – Additional royalty</li><li>• Special advantage – Shadow tax</li><li>• Investment in endogenous development</li></ul>	<ul style="list-style-type: none"><li>• Tax on extraordinary and exorbitant oil prices in the international market (Windfall tax)</li></ul>

### ○ 石油行业的特殊税项

碳氢化合物法规	创建混合公司协议	其他特殊税项
<ul style="list-style-type: none"><li>• 特许权使用费</li><li>• 表面税</li><li>• 消费税</li><li>• 一般消费税</li><li>• 开采税</li><li>• 出口登记税</li></ul>	<ul style="list-style-type: none"><li>• 特别优惠 – 额外特许权使用费</li><li>• 特别优惠 – 暗影税</li><li>• 内源性发展的投资</li></ul>	<ul style="list-style-type: none"><li>• 国际市场上高昂的石油价格的税收（特别权益税）</li></ul>

## Key tax issues

- Network of Double Taxation Treaties with the United States and European Countries. Treaties have been entered into with approximately 30 countries. Tax treaties are the second most important source of tax law in Venezuela, after the Constitution. Most treaties follow the OECD model, and the OECD Model Convention
- Introduction of codified economic substance rules in the Master Tax Code and the Income Tax Regulations, which comprise:
  - Generic Anti avoidance provision which empowers the Tax Administration to disregard legal forms or procedures when the fundamental intent of the taxpayer is to achieve tax benefits
  - Requirement of tax residence certificate to allow for the application of treaty provisions

## 主要税务问题

- 与美国和欧洲国家的税收协定网络。目前委内瑞拉与大约30个国家签署了税收协定。税收协定在委内瑞拉是第二个最重要的税法来源，仅次于宪法。大部分税收协定是遵照经合组织（OECD）的范本编制的。
- 税法和所得税法规中引入了经济实质包括以下内容：
  - 如果纳税人的根本目的是为了获得税收优惠，一般反避税条款授权税务总局无视法律形式或程序；
  - 必须具有居民纳税人身份证明才可应用税收协定中的优惠条款。

# Double Taxation Convention with China

## 委内瑞拉与中国的双重征税协定

Concept	China
<b>Dividends</b>	5% - Beneficiary $\geq$ 10% 10% - Other cases
<b>Interests</b>	5% -10%
<b>Royalties</b>	10%
<b>Technical Assistance</b>	10%
<b>Technical Services</b>	10%
<b>Capital Gain</b>	Exempt from Venezuelan income tax liability except: (i) real estate; (ii) assets attributable to a permanent establishment; (iii) Ships or airplanes engaged in international transportation
<b>Business Profits</b>	Not taxable in the source country unless attributable to a permanent establishment

收入	中国
<b>股息</b>	5% - 受益人 $\geq$ 10% 10% - 其他情况
<b>利息</b>	5% -10%
<b>特许使用权费</b>	10%
<b>技术支持</b>	10%
<b>技术服务</b>	10%
<b>资本利得</b>	免于委内瑞拉所得税，除了以下情况： i. 房地产； ii. 归属于常设机构的资产； iii. 从事国际运输的船舶或飞机
<b>营业利润</b>	除非归属与常设机构，否则无需在利润来源国征税

# Key tax issues

## Value Added Tax

- The VAT is applicable to the transfer of goods, the rendering of services and the importation of goods, as specified in the law and is applicable throughout the entire Venezuelan territory. The current standard VAT rate is 12%. A different rate is provided for certain types of products and services
- Entities designated as special taxpayers by the Venezuelan tax authorities, as well as public entities and State-owned companies must withhold 75% of VAT paid on purchases. This may create a cash flow issue for the taxpayer since in practice the recover of this VAT tends to have long delays

# 主要税务问题

## 增值税

- 按照委内瑞拉的法律规定，并且适用于全国，企业在销售商品、提供服务以及进口商品时需要缴纳增值税。目前的增值税率为12%。某些产品和服务的增值税率有所不同。
- 委内瑞拉税务机构指定的特殊纳税企业、上市企业以及国有企业必须代扣购买时支付的75%的增值税。这一规定可能给纳税人造成现金流的问题，因为实际操作中获得增值税的返还需要很长时间。

# Key tax issues

## Value Added Tax

- Special regime for taxpayers engaged in the execution of industrial projects, whose duration exceeds six taxable periods. Taxpayers will be able to suspend the use of input VAT generated during their operating stage, until such time as they begin generating fiscal output VAT
- Taxpayers engaged in the execution of industrial projects aimed at exporting or generating foreign currency may (with prior consent of the tax authorities), choose to recover the tax supported in construction operations involving the project, provided that they are carried out during the pre-operating stage of such project
- Special regime stipulated is available to taxpayers engaged in the export of national goods or services where taxpayers are entitled to recover tax supported in the purchase of goods and reception of services related to export activities. If in addition such exporters carry out sales in the country, they will only be entitled to recover tax credits imputable to foreign sales

# 主要税务问题

## 增值税

- 纳税人从事工业项目的时间超过了6个纳税期时可适用特殊制度。纳税人可以暂停使用产生于其经营阶段的进项增值税额（input VAT）直到该纳税人开始产生销项增值税额（output VAT）。
- 纳税人从事以出口或产生外币为目的的工业项目时（事先需获得税务机关的同意）可能可以选择获得用于建造该项目时支付的税款的返还，但该建造工程必须是在运营该项目的前期阶段进行的。
- 纳税人从事出口国家商品或服务且购买与出口相关的商品或服务可以返还其销购商品与服务的相关增值税。如果该出口商在本国内进行销售，他们只能得到属于境外销售的税款抵免。

## *Key tax issues*

### **Local Taxes**

- Municipalities levy a license tax on commercial and industrial enterprises, at various rates, normally ranging between 0.5 and 10 percent of gross revenue

### **Other Taxes**

- Stamp duty of 1% is imposed when the initial capital of a company is registered or increased

### **Capital District Stamp Tax**

- On December 2010 a new District Capital Stamp Law was published, according to which (and under their own interpretation of the Law), Mercantile Registries of the Capital District are charging 10% of the amount of subscribed or increased capital of companies and 20% for the sale of a going concern

## *主要税务问题*

### **地方税**

- 市政府向商业和工业企业征收牌照税，通常该税率为总收入的0.5%至10%之间。

### **其他税**

- 当一家公司注册或增加其初始资本时需要缴纳1%的印花税。

### **首都区域印花税**

- 2010年12月颁布了一项新的首都区域印花税法（District Capital Stamp Law），该法规规定首都地区的商品登记处按公司资金征收10%的印花税，出售公司则征收20%的印花税。



## Key tax issues

### Other Taxes (Cont.)

- There are two kinds of payroll taxes: the social security contributions and special taxes on payroll which are destined to specific social ends (Housing Regime Contribution, Tax on Prevention, Condition and labor Environment, and Employee Training Contribution)
- The Science, Technology, and Innovation Law establishes a mandatory contribution for large companies, which have annual gross income of over one hundred thousand tax units (100,000 T.U.)
- The Master Law against Illicit Dealing and Consumption of Narcotic and Psychotropic Substances stipulates that companies who employ fifty (50) or more employees must assign one percent (1%) of their annual operating net profits to drug traffic and consumption prevention programs. Of this percentage, zero point five percent (0.5%) should be assigned to protection programs for children and adolescents, which have absolute priority

## 主要税务问题

### 其他税（续）

- 存在两种薪酬税：社会保障金和针对具体社会目的薪酬税（住房制度、预防、劳动环境以及员工培训）。
- 科学、科技和创新法规规定拥有年度总收入超过10万税收单元(100,000 T.U.)的大型企业必须缴纳该薪酬税。
- 禁止麻醉药品和精神药物的非法交易和销售的法律规定拥有超过50位员工的公司必须向预防毒品贩运和销售的机构分配他们年度净营业利润的1%。其中的0.5%必须分配给保护未成年人的项目。

# *Individual taxation* 个人所得税



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# *Taxation on China National Expatriates*

## 中国国家侨民的税收制度

### Tax Residency

- Individuals are considered to be residents in Venezuela for tax purposes under either of the following scenarios:
  - When they spend more than 183 days in Venezuela in aggregate during a fiscal year or if they have spent more than 183 days in Venezuela in the preceding year
  - According to the Master Tax Code, individuals will be considered residents in Venezuela for tax purposes if they establish a residence or home in Venezuela, unless they have stayed in another country more than 183 days and demonstrate, through evidence issued by the corresponding tax authorities, that they are tax residents in that other country
  - Individuals are generally required to file their tax returns on a calendar year basis

### 居民纳税人

- 出于税务角度，纳税人按照以下情况被定义为委内瑞拉的居民纳税人：
  - 在相关日历年度或前一日历年度的委内瑞拉居住满183天的个人。
  - 根据税法总章的规定，在委内瑞拉建立住所或家的个人，除非他在同一日历年度在另一个国家里居住满183天并且可以证明他已获得该国的居民纳税人身份。
  - 通常情况下，个人需要按日历年度进行纳税申报。

# *Taxation on China National Expatriates*

## **Taxability**

- Tax residency will affect an individual's income tax position in Venezuela. The following table provides a comparative summary of the Venezuelan tax basis for resident and non-resident individuals:

	Residents Individuals	Non - Resident Individuals
Income subject to tax	Tax worldwide income	Venezuelan source income
Tax Rates	Progressive tax rates from : 6% - 34%	Flat rate of : 34%
Tax Deductions	May claim personal deductions and allowances	None
Foreign tax credits	May credit the income tax paid abroad for income of extraterritorial source	None

## 中国国家侨民的税收制度

居民纳税人身份影响个人在委内瑞拉的所得税的立场。

- 下表对于居民纳税人与非居民纳税人的委内瑞拉计税标准进行比较：

	居民纳税人	非居民纳税人
应税收入	所有全球收入	源于委内瑞拉的收入
税率	累进税率：6% - 34%	固定税率：34%
税前扣除	可以进行个人的扣除与减免	不适用
境外税收抵免	可以抵免境外所得的税款	不适用



Espiñeira, Sheldon y Asociados

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**非常感谢！**

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