

Doing Business in Venezuela

*A guide to make business at
the north of the south*

November 2012



Contents

Presentation	3
Foreword	4, 5
I. Country overview	6
II. Main indicators of the economy	8
a. Gross domestic Product	8
b. Inflation and currency	8
c. Foreign trade	8
III. Foreign investments regulations	9
IV. Investment promotion	11
V. Currency and Exchange controls	13
VI. Foreign trade	15
VII. Choice of entity	18
VIII. Corporate taxation	21
a. Income tax	21
b. Transfer pricing regime	34
c. Value Added Tax	35
d. Custom duties	37
e. Excise taxes	38
f. Municipal (local) taxes	38
g. Inheritance and gift taxes	39
h. Oil & Gas Industry taxation	39
i. Other contributions	42
j. Payroll taxes	44
IX. Individual taxation	46
X. Labor regulations	49
XII. Immigration	52
XII. Other regulations affecting business activities	53
XIII. Accounting and audit requirements	54

Presentation

PwC Venezuela

The Bolivarian Republic of Venezuela's oil revenues account for roughly 94 per cent of export earnings, more than 50 per cent of federal budget revenues, and around 30 per cent of gross domestic product. Apart from petroleum, the country's natural resources include natural gas, iron, gold, bauxite, diamonds and other minerals.

The recent Venezuela's incorporation to Mercosur will be a very interesting opportunity to diversify the economy, strengthen regional integration and promote partnerships between other Mercosur member countries.

I am pleased to present you with the 2012 edition of our guide, Doing Business in Venezuela.

This guide addresses some of the broader questions you may have regarding operating or investing in a business in our country.

Venezuela has been one of the most interesting economies in the world, and despite some difficult moments, there continue to be significant business opportunities.

PwC has been advising companies and individuals on how to establish themselves in Venezuela for more than 75 years.

We have extensive knowledge and experience in all business sectors, and have advisors in all industries ready to assist you.

I hope that you find this guide interesting and useful. If you have any questions or comments, please do not hesitate to contact me or one of my fellow partners.



Pedro Pacheco Rodríguez
Senior Partner

pedro.pacheco@ve.pwc.com
@pachecorpedro

1935 - 2015

80

years of passion
for Venezuela

Foreword

This guide has been prepared to assist those interested in doing business in Venezuela.

It does not exhaustively cover all the subjects considered, but is intended to answer some of the important, broad questions that may arise. When a specific problem appears in practice, it will often be necessary to complement the information in this guide by consulting the laws, regulations and rulings established in the country and to obtain appropriate professional advice.

The material contained in this guide was collected in the second quarter of 2012 and is based on information available and regulations in force at that time.



Country overview

National Park of Los Roques: Biodiversity at the most. Picture by John Bäckstrand



Salto Ángel (Kerepakupai Vená) is the world highest waterfall with 979 m. Picture by Carla Torres



I. Country overview

The Bolivarian Republic of Venezuela (Venezuela) has a privileged location on the Northern Coast of South America, which facilitates access to the East Coast of the United States, to the Panama Canal, to Central America, and to the Caribbean. The country has a surface of 916,445 square kilometers and is the seventh largest country in Latin America. The official language of Venezuela is Spanish, and the currency is the bolívar fuerte (VEF).

Venezuela is defined as a federal and democratic state, with Caracas as the capital. There are three levels of government: the national, the state, and the municipal governments. The legal system is based on the Roman law and the Napoleonic Code. The main tenets of the legal system are embodied in the Constitution of 1999, congressional laws, executive decrees, and the legal standards of the Republic.

According to official estimations issued by the National Institute of Statistics (INE), Venezuela's population exceeded 28 million people in 2010, of which approximately 45% comes from an economically active population.



Venezuela's latitude and longitude is 8° 0' N and 66° 0' W

II. Main indicators of the economy

Venezuela is a significant player in the oil and gas industry. Venezuela has proven oil reserves of 297 billion barrels, which represent 55% of crude oil reserves in the Western Hemisphere and 18% of global reserves.

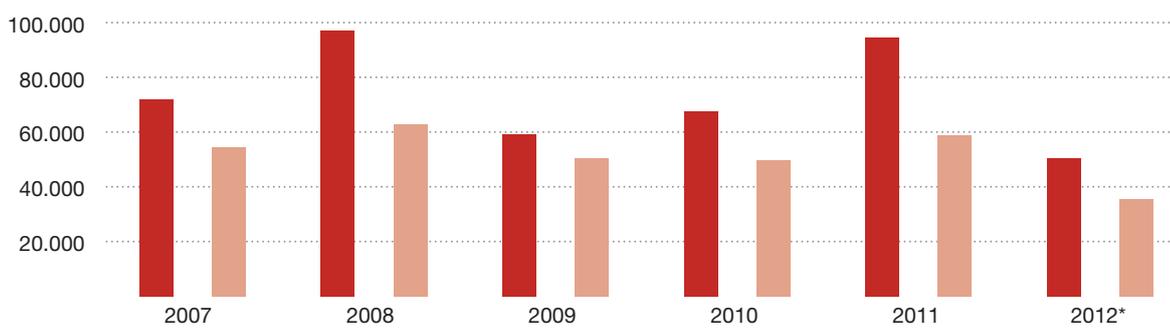
This makes Venezuela one of the countries with the largest oil reserves in the world, particularly heavy and extra heavy crude oil, which accounts for 93% of oil reserves in the country. Oil revenues account for 90% of export earnings, about 50% of the federal budget revenues and around 12% of the Gross Domestic Product (GDP).

Also, Venezuela is the eighth country with the largest gas reserves in the world, with approximately 195.2 billion cubic feet of gas. These reserves are the second largest in the Western Hemisphere

With regard to economic indicators, for the fourth quarter of 2011, GDP has increased 4.2%.

Foreign trade (Goods and services)

Chart No. 1: Millions of US\$ at 1997 constant prices



Source: Banco Central de Venezuela - *2012 data includes only the two first quarters

■ Exports ■ Imports

III. Foreign investments regulations

The Venezuelan Constitution recognizes foreign capital as a means of economic development. Foreign investment in Venezuela is governed by the Common Regime on the Treatment applicable to Foreign Capital and on Trademarks, Patents, Licenses and Royalties established by the Commission of the Cartagena Agreement (Decision 291) and the Regulations for the Common Regime for the Treatment applicable to Foreign Capital, Trademarks, Licenses, and Royalties (Decree N° 2.095). The aforementioned decree and its accompanying resolutions constitute a legislative demonstration that Venezuela has a liberal and progressive treatment for foreign capital.

The Superintendence of Foreign Investment (SIEEX, by its Spanish acronym) is the national agency in charge of the supervision and enforcement of rules governing foreign investments, including the supervision of direct foreign investment (i.e., capital contributions), external credits, importation of technology, trademarks, patents, and royalties.

Under Decree No. 2,095, foreign investors are free to choose whether to operate in Venezuela through an entity organized under local law or simply through a branch of a foreign company. In addition, foreign investors no longer need to seek authorization before investing in new or existing Venezuelan companies, unless there is specific legislation requiring such authorization. The foreign investor is required only to give notice to SIEEX. Provided that the law has been complied with and the relevant taxes paid for, foreign investors have the right to transfer all the payments relating to their investment, including:

- Capital contributions.
- Profits and other earnings generated from the investments (such as dividends, interest and royalties).
- Payments relating to expropriation proceeds.
- All proceeds derived from the full or partial sale or liquidation of an investment.
- Payments arising from dispute resolutions.

These payments may be made in convertible currency. Exceptions, however, may be made to those rights but only on a temporary basis in cases where there is an extraordinary economic or financial crisis and the enforcement of such rights were to create a serious problem to the country's balance of payments or international monetary reserves.

In this regard, as detailed in Section V, under the current exchange control regime all currency introduced in the country as direct foreign investment and as financial assets must be sold directly to the Venezuelan Central Bank (VCB), through authorized banks and other financial institutions. In addition, in order to obtain currency at the official exchange rate in the case of profit remittances and capital repatriation as well as for the payment of liabilities derived from technology supply contracts, certain requirements must be met, such as registration with the SIEEX.

On the other hand, on April 2006, The Bolivarian Republic of Venezuela dropped out of the Cartagena Agreement, based on article 135 of the aforementioned instrument. This situation has originated a state of uncertainty in regard to the validity of the community regulations concerning foreign investment, technology transfers, and intellectual property, since there is no official pronouncement regarding the legal effects caused by Venezuela leaving the Andean Community of Nations (CAN, by its Spanish acronym).

Nevertheless, it is understood that the SIEEX is still following community regulations regarding foreign investment and technology transfer to grant registration of foreign investment, technology importation and business qualification.

III. Foreign investments regulations

Repatriation of Capital and Earnings

Foreign investors may repatriate, at any time, their original investment in a Venezuelan company through a reduction of capital, liquidation, or sale of the shares in the local company, provided that the foreign investment was properly registered with SIEX. Although no prior approval from SIEX is required, notification to SIEX must be given. In the case of a reduction of capital, SIEX must be notified within sixty (60) days of the date of the transactions. In all other cases, notice must be given when the local company files its annual information update with SIEX. In all cases, SIEX will verify whether taxes have been paid on the sale or liquidation proceeds. These rules are equally applicable to branches of foreign corporations.

Similarly, companies may distribute to their foreign investors all of their annual earnings, regardless of whether the company is “national”, “mixed”, or “foreign” and the economic sector in which the company operates. Technically, in order for profits to be distributed, the Venezuelan distributor must be duly registered with SIEX and all the annual notices must have been filed with SIEX with the relevant attachments, such as the distributor’s financial statements duly audited by independent public accountants. While the law is not clear on this matter, it is understood that Venezuelan branches of foreign companies are also subject to these rules. Such distributions of dividends and earnings do not require the previous approval of SIEX, but must be disclosed in the annual information report filed by the distributor with SIEX. At such time, SIEX will verify whether the distribution exceeded the company or branch’s earnings as determined in the company’s audited financial statements.

Registration of license and transfer of technology agreements

Registration of transfer of technology and license agreements with SIEX ensures the right to remit abroad royalties and fees set forth under the registered agreement subject to the prior withholding and payment of the relevant taxes. Although no prior authorization is necessary to make this payment, the paying entity must, within sixty (60) days of the payment date, notify SIEX of the payment by furnishing to the latter with copies of the receipts of the remittance made abroad and of the taxes withheld. Failure to register amendments to license or services agreements renders such amendments unenforceable until such time as they are registered with SIEX. Accordingly, an increase in a royalty rate or technical assistance or technological services fees pursuant to an agreement amendment may not be paid until such amendment is registered. In addition, no royalties or similar payments will be allowed for the use of trademarks, industrial procedures, patents or models once the exclusivity of the property right has expired under the Industrial Property Law.

Economic sectors reserved to national companies

The following economic sectors are reserved to national companies:

- Television and radio broadcasting.
- Professional services regulated under national laws.

According to the Hydrocarbons Law, primary activities can only be performed by the State directly or through owned companies in which the State has decision making control (i.e. over 50 per cent of the capital stock).

IV. Investment Promotion

Venezuela has also specific legislation for the promotion and protection of investments and investors, both local and foreign. In this regard, the government enacted Decree Law No. 356 on October 3, 1999.

In essence, Decree Law No. 356 offers foreign investors the right to be treated fair and equitably pursuant to the norms provided under international law. Moreover, foreign investments in Venezuela may not be subject to arbitrary or discriminatory measures that in some way create an obstacle for their management, maintenance, expansion, sale or liquidation.

Decree Law No. 356 prohibits national expropriation unless otherwise excepted under the Constitution or, in the case of a foreign investment or investor, as long as it is made pursuant to international law. Any expropriation must be made on a non-discriminatory basis and must be followed by a prompt, fair, and adequate indemnity. In that regard, any indemnity must be equal to the fair market value that the investment had immediately prior to announcement of such nationalization.

The indemnity must be paid promptly, must include the applicable commercial interest from the date of the take over until the time of payment, and such payment must be made in convertible currency and may be freely transferred abroad. Decree Law No. 356 applies both to investments made prior to its enactment as well as investments made thereafter.

Decree Law No. 356 allows the government to enter into legal stability agreements with companies operating in Venezuela to ensure certain economic stability to the investment during the duration of the contract. Legal stability agreements may be entered into with respect to taxes, export incentives, and other specific incentives that an investor or the company receiving the investment has obtained. Stability agreements must be entered into prior to making the investment. Any disputes arising from the stability agreement may be resolved by international arbitration. Tax stability agreements require the favorable opinion of the SENIAT and may only enter into force with the prior authorization from the Venezuelan Congress.

In addition to the General Rules, the Bolivarian Republic of Venezuela has entered into Conventions for the Incentive and Reciprocal Protection of Investments with the following countries:

Germany	Argentina	Barbados
Belgium-Luxembourg	Brazil	Chile
Canada	Costa Rica	Cuba
Denmark	Ecuador	Spain
France	United Kingdom	Lithuania
Iran	The Netherlands ⁽¹⁾	Paraguay
Peru	Portugal	Czech Republic
Switzerland	Sweden	Uruguay

⁽¹⁾ Rescinded by Venezuela in 2008.

IV. Investment Promotion

Venezuela's withdrawal from the ICSID Convention

On January 24, 2012, the Bolivarian Republic of Venezuela formalized its withdrawal from the Convention of the International Center for Settlement of Investment Disputes (ICSID Convention), by means of a letter addressed to the World Bank.

On the other hand, in accordance with that set forth in Article 71 of the ICSID Convention, the withdrawal will be effective in a period of six (6) months after the date of the notice, i.e. July 25, 2012.

Most conventions for the incentive and reciprocal protection of investments entered into by the Bolivarian Republic of Venezuela with other countries include ICSID as the international arbitration entity for the resolution of disputes; alternatively, many of these conventions stipulate the possibility of requesting arbitration from other international entities, being this the option that may be adopted in the event of unsettled disputes.

In this regard, it is important to point out that according to that set forth in Article 72 of the ICSID Convention, the withdrawal from said Convention does not affect pending arbitration processes or those that may be initiated for circumstances occurred for up to six months thereafter.

Conventions for the Incentive and Reciprocal Protection of Investments entered into by Venezuela which include the ICSID as arbitration entity will be affected by the aforementioned exit.



Mucubají lagoon. Sierra Nevada National Park. Picture by Ivonne Barreto

V. *Currency and Exchange controls*

The current foreign exchange regime has been mostly developed in the Exchange Agreements entered into between the Venezuelan Central Bank (VCB) and the Ministry of the People's Power for Finance and Decree N° 2.302 dated February 5, 2003, amended through Decree N° 2.330 dated March 6, 2003. This Decree establishes the creation of the Commission for the Administration of Foreign Currency (CADIVI, by its Spanish acronym).

The VCB is to centralize the purchase and sale of foreign currency in the country in the terms set forth therein, as well as in the standards later developed.

The coordination, administration, control, and setting out of requirements, procedures and restrictions necessary for the execution of the Agreement belong to CADIVI. This entity, by virtue of the authority granted to it, has issued Administrative Providences, thereby establishing the requirements, controls and procedures for the administration of foreign currency.

As for the possibility of acquiring foreign currency for private sector purposes, it is feasible to purchase foreign currency at the official exchange rate for the import of goods and services; payment of principals and interest of private foreign debt, as well as remittance of dividends, capital gains and interest derived from direct foreign investment; for payments in foreign currency derived from technology import agreements and the use and exploitation of patents and trademarks. The acquisition of foreign currency at the official exchange rate for these concepts is subject to the conditions set forth for such purposes by CADIVI in the Administrative Providence.

Requirements, controls and procedures have been established for the acquisition of foreign currency at the official exchange rate (VEF 4.30 per USD) for:

- Import of goods.
- Foreign investment (Repatriation of initial capitals, amounts necessary for maintaining, enhancing and developing foreign investment, remittance of benefits, profits, revenues, interest and dividends), payments associated with royalties, use and exploitation of patents, trademarks, licenses and franchises, as well as payments related to technology import and technical assistance agreements.
- Payments arising from leasing agreements, service agreements, use and exploitation of patents, trademarks, licenses and franchises, as well as the import of intangible assets of companies which are not recipients of foreign investment.

In order to acquire foreign currency for the purposes of remittances of dividends, capital gains and interest derived from foreign investment, and for the payments of import technology or for the use of patents or trademarks, individuals or companies have to register with the Venezuelan SIEX

Finally, the foreign currency that enters the country must be sold to the VCB at the official exchange rate.

Alternative mechanism for the acquisition and sale of foreign currency, at an exchange rate higher than the official exchange rate, include the trade, in the secondary market, of securities denominated in foreign currency issued by the Republic of Venezuela and its entities. Under the current exchange control regime, such transactions can be only carried out through the system for transactions in foreign currency denominated securities (SITME for its acronym in Spanish). Companies may have access to SITME operations, through universal banks, commercial banks and savings and loan entities, which for these purposes are considered authorized financial institutions.

V. Currency and Exchange controls

Companies domiciled in the country may acquire securities through SITME, up to a cash value equivalent to U.S. \$ 50,000 per day as long as it does not exceed a cash value equivalent to \$ 350,000 per month (not cumulative), when in any of the following two circumstances:

1. Importers of goods and services not included in the list 1 and 2 set forth in the joint resolution passed by the Ministries of the People 's Power for Planning and Finance, Trade, Basic Industries and Mining, Agriculture and Lands, Health, Oil and Energy, Science Technology and Intermediate Industry, Food, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 39,396 on April 5, 2010, or the one replacing it.
2. Importers of goods and services that are included in list 1 and 2 set forth in the joint resolution passed by the Ministries of Popular Power for Planning and Finance, Trade, Basic Industries and Mining, Agriculture and Lands, Health, Oil and Energy, Science Technology and Intermediate Industry, Food, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 39,396 dated April 5, 2010, that have not acquired foreign currency over the past 90 days through authorizations for the liquidation of foreign currency issued by the foreign Exchange Administration Commission (CADIVI) or have not been approved the treaty payments of the American Association of Integration (ALADI) or through the Unitary System of Regional Payments (SUCRE).

Acquisition of foreign currency can be also carried out through the purchase, in local Venezuelan currency, and subsequent sale abroad of foreign currency – denominated Public Debt Bonds. These bonds can be acquired in the primary market and, generally, are only available to certain categories investors and up to a fixed amount determined at discretion of the issuer.

Exporters must sell to the VCB a significant percentage of the foreign currency obtained from exports of goods and services.

Exchange Agreement N° 20

Exchange Agreement N° 20 entered into effect on July 19, 2012 and stipulates that companies not domiciled in the Bolivarian Republic of Venezuela, who partake in the execution of strategic projects of public investment for the development of the national economy and the promotion of productive offer, may keep funds derived from abroad in foreign currency at local universal banks.

The agreement also establishes that individuals of legal age, domiciled in the national territory and companies domiciled in the country may keep at term-demand accounts held in local universal banks, funds in foreign currency derived (among other legal transactions) from the liquidation of securities denominated in foreign currency, issued by the Venezuelan Government and its decentralized entities, or by any other entity acquired through the SICOTME (System of primary collocation of foreign currency denominated securities) or the SITME systems.

Also, governmental entities which obtain foreign currency from their exporting activity, may assign up to 5% of their monthly average balance held in foreign currency accounts authorized by the Directors of the VCB to the acquisition (at international financial markets) of securities in foreign currency issued by the Venezuelan Government or its decentralized entities, for the purposes of being traded through the SITME system.

VI. Foreign trade

Regional and bilateral trade agreements

Venezuela is a founding member of the World Trade Organization (WTO). Also, Venezuela has entered into regional trade agreements where the most important is the Latin American Integration Agreement (ALADI by its Spanish Acronym) which is comprised of Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Mexico, Paraguay, Peru, Uruguay, and Venezuela.

Current trade agreements entered into by Venezuela are summarized in the chart below.

Free Trade Agreements	Signatory's Parties	Date of entrance in force
ACE N° 59 (Mercosur - CAN)	Argentina, Brazil, Uruguay, Paraguay and Ecuador, Colombia y Venezuela.	Argentina, Jan 5th, 2005 Brazil, February 1st, 2005 Uruguay, January 5th, 2005 Paraguay, April 19th, 2005
ACE N° 48 (Argentina - Venezuela)	Argentina - Venezuela	June 5th, 2001
Bolivia – Venezuela	Bolivia – Venezuela	July 22nd, 2011
ACE N° 39 (Brazil – Venezuela)	Brazil – Venezuela	November 24th , 1999
ACE N° 23 (Chile – Venezuela)	Chile – Venezuela	July 7th, 1993
Caribbean Community (CARICOM) – Venezuela	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, and Trinidad and Tobago.	January 1st, 1993.
Colombia – Venezuela	Colombia – Venezuela	August 20th 2012
ACE N°26 (Costa Rica – Venezuela)	Costa Rica – Venezuela	July 9th, 1986
ACE N°40 (Cuba – Venezuela)	Cuba – Venezuela	August 28th, 2009
Ecuador – Venezuela	Ecuador – Venezuela	July 22nd, 2011
ACE N°27 (El Salvador – Venezuela)	El Salvador – Venezuela	July 9th, 1986
ACE N°23 (Guatemala – Venezuela)	Guatemala – Venezuela	February 6th, 1986
AAP (Guyana – Venezuela)	Guyana – Venezuela	June 28th, 1991
ACE N°16 (Honduras – Venezuela)	Honduras – Venezuela	May 14th, 1986
ACE N° 25 (Nicaragua – Venezuela)	Nicaragua – Venezuela	February 20th, 1992.

Continues on next page

VI. Foreign trade

Came from previous page

Free Trade Agreements	Signatory's Parties	Date of entrance in force
Regional Customs Preference (Preferencia Arancelaria Regional -PAR)	Argentina, Brazil, Paraguay, Uruguay, Chile, Cuba, Bolivia, Colombia, Ecuador, Mexico, Peru, Venezuela	December 20th, 1995
ACE N° 21 (Trinidad and Tobago – Venezuela)	Trinidad and Tobago – Venezuela	August 31st, 1989
MERCOSUR	Argentina, Brazil, Paraguay, Uruguay y Venezuela	July 31, 2012

ACE: Economic Complementation Agreements (Acuerdo de complementación Económica)
AAP: Partial Scope Agreements (Acuerdo de Alcance Parcial)

On July 31st, 2012, Venezuela formalized its incorporation to MERCOSUR in search for economic opportunities within trade matters. As indicated in Section III, Venezuela was member of the Andean Community from which it was definitely excluded in 2011, once the five year period granted to leave behind the advantages received and granted in accordance with the release program elapsed, after resigning to the Cartagena Agreement.

Among the demands that Venezuela would have upon its incorporation to MERCOSUR, in addition to being in front of more competitive regional markets, this integration system requires the alignment of fiscal policies, mainly in customs tariff matters, which should provide benefits to the products derived from the Contracting States (Argentina, Brazil, Paraguay and Uruguay) and equivalent to these products which Venezuela will export to these countries, thereby establishing the goal to achieve economic growth through the strengthening of trade, enhancing horizons for products, services and investments of member countries. Through said convention a trading process is driven to agree on benefits aimed at decreasing international trade barriers. These barriers are of various natures, however, they differ from tariff barriers, which relate to import taxes (customs tariffs) and non-tariff barriers, related to laws, regulations, standards which prevent or obstruct the cross border flow of merchandise, investments or services.

The topics are mostly focused in the following aspects:

- **Trade of goods:** access to markets, rules of origin, customs procedures, and safeguarding, among other.
- **Trade of Services:** the most relevant services are telecommunications, air transport, financial services, temporary entrance of businesspeople.
- **Trading Disciplines:** which include competing policies, subsidies, antidumping mechanisms, and technical standards.
- **Solution of controversies:** some mechanisms are established to deal with differences between parties.

VI. Foreign trade

Free trade zones

Venezuela has four types of free trade zones:

- (i) Nueva Esparta: Commercial free port;
- (ii) Paraguaná Peninsula: Industrial free trade zone devoted mainly to the development of an export-oriented industry, although any industry can be established therein provided that it complies with the following requirements: (x) it adopts a series of quality control systems, (y) it does not need to consume high quantities of water to perform its industrial activities, and (z) it adopts an anti-pollution and fire prevention system. There are more than 40 enterprises established therein;
- (iii) Margarita Island and Santa Elena de Uairén: Duty-free area (the sale of duty-free merchandise from Margarita island to the mainland is subject to quotas); and
- (iv) Mérida: Free trade zone for producers of goods and services within the cultural, scientific, and technological sectors.

Bonded warehouses are found in ports and airports, such as Caracas, Puerto Cabello, Puerto La Cruz, and San Antonio.

An example of a commercial free zone is the one created in 1998 in the State of Mérida. In this regard, income generated from the production, distribution, commercialization and promotion of cultural, scientific, and technological goods and services in the free zone of Merida is exempt from income tax. Moreover, goods and components imported into Venezuela which are destined to the Merida free zone are exempt from customs duties, VAT, and customs service fees. The producer must be duly authorized to operate in the free zone in order to claim the tax and duty benefits granted by the law. The entry of goods from the Merida free zone into the rest of Venezuela is viewed as an import and, thus, subject to customs duties, but only with respect to the goods that were initially imported into the Merida free zone.

An example of a services free zone is one created in 1998 in the Paraguaná Peninsula, Falcon State. The tax benefits are limited to tourism services and commercial activities that are rendered in connection with the tourism industry. In this regard, income arising from new infrastructure investments made in the free zone by enterprises that render tourism-related services is exempt from income tax for a period of 10 years, provided that such enterprises are authorized to operate in that zone. Tourism enterprises that operated within the zone prior to 1999 are also entitled to claim the tax benefits provided that they are in compliance with the requirements established under the Paraguaná free zone law.

Hotels that operated in the free zone prior to 1999 that make improvements or extensions to their existing assets may also claim an income tax exemption for a 5-year period provided that the infrastructure improvement or enlargement is at least 30% of the net present value of all the enterprise's assets.

VII. *Choice of entity*

In general, the Venezuelan mercantile law does not establish mayor restrictions for foreign individuals or companies to be shareholders or to have stakes in Venezuelan mercantile companies, nor does it establish a specific percentage of Venezuelan ownership, and it does not prevent companies incorporated abroad from having branches in the country. However, restrictions are provided for specific activities as indicated in Section III.

There are various forms of business entities in Venezuela which are useful vehicles for foreign investments, including corporations, generally subsidiaries of foreign companies, partnerships, and branches of foreign companies.

The Venezuelan Commerce Code (Comm. C) defines four types of business entities: Corporations or Sociedad Anónima (S.A.), Limited Liability Companies or Sociedad de Responsabilidad Limitada (S.R.L.), General Partnership or Sociedad en Nombre Colectivo, Limited Partnership or Compañía en Comandita Simple, and Limited Partnership by Shares or Compañía en Comandita por Acciones:

a. Corporations or Sociedad Anónima (S.A.)

The S.A. is similar to the US Corporation. The S.A. is the company in which the obligations are secured by a given capital and the shareholders are obligated only up to the amount of their share. The main characteristic of this kind of entity is that the liability of the partners for the social obligations is limited to the amount of their contribution. The capital is divided into shares which may be freely transferred. Also, it is important to point out that the participation of the partners is determined according to their contribution or participation in the capital. Given these characteristics the S.A. falls within the category of societies of capital.

b. Limited Liability Companies or Sociedad de Responsabilidad Limitada (S.R.L.)

The SRL is similar to the US Limited Liability Company. In this form of entities also the obligations are secured by a given capital which, as opposed to the S.A. is not represented by shares or negotiable instruments, but in participation quotas or allotments. The participation quotas must be of equal amounts, not less than VEF 1.00. If the quota is for a greater amount, this amount must be a multiple of VEF 1.00. The transference of the quotas to third parties is restricted, as they should be offered to the other partners and is subject to their approval.

The capital of this kind of entity cannot be less that VEF 20.00 or more than VEF 2,000.00. However, the financial equity of this type of legal entity can exceed the VEF 2,000.00 limit amount as “paid in capital.” As in the S.A., in the S.R.L., the liability of the partners is limited to the amount of their capital contribution. It is also considered an association of capital. This entity is commonly used by investors from the United States of America in order to take the “check the box” tax benefit arising from its qualification under the regulations applicable there.



VII. Choice of entity

c. General Partnership or Sociedad en Nombre Colectivo

The Sociedad en Nombre Colectivo is equivalent to the US partnership. Its main characteristic is that the partners do not enjoy limited liability and the interest parts in which the capital is divided cannot be freely transferred. Each partner is liable for the obligations of the entity. In the Sociedad en Nombre Colectivo the social obligations are guaranteed by the joint and unlimited responsibility of all the partners. Furthermore, the joint and unlimited liability of the partners cannot be limited by any clause of the document of constitution. However, as this provision points out, third parties cannot file a claim against the partners without having previously filed their claim against the entity.

d. Limited Partnerships or Compañía en Comandita Simple

The Compañía en Comandita Simple is similar to a US limited partnership. This entity has two classes of members, the commendators or limited partners (comanditarios) whose liability is limited to the amount of their capital contribution, and the tractators or general partners (comanditantes) who have full responsibility and unlimited liability for the obligations of the business. The management of the company corresponds to the general partners. Indeed, according to article 238 of the Comm. C., if a limited partner undertakes an act of management or acts as general representative of the company, his liability will become unlimited. The rules governing the general partnership are applicable to the general partners, and the limited partners are governed by the rules of the Sociedad en Comandita. The General Partnership and simple Limited Partnership are considered societies of persons, since in both kinds of entities there are partners who bear joint and subsidiary liability for the social obligations.

e. Limited Partnership by Shares or Compañía en Comandita por Acciones

The Compañía en comandita por acciones enjoys the same characteristics as the Compañía en Comandita Simple. The only difference is that the capital contribution of the limited partners (comanditarios) is divided in shares. The rules concerning the shares of a S.A., are applicable to the shares representative of the capital contributed by the limited partners, thus, they may be freely transferred. This kind of entity has been classified within the category of societies of capital.

f. Branches of Foreign Companies

Foreign companies may invest in Venezuela also through the establishment of a branch. A branch is not a legal entity different from the main office, but rather it enjoys the same legal personality of the foreign company. Branches do not own capital or bear a separate liability, although they may be entitled to certain degree of autonomy within the organization's internal structure in the management of certain activities, keep separate accounting records and dispose of capital assigned for the purposes of carrying out its activities. Based on the principle stated above, branches and their head offices do not constitute separate entities, but instead they are considered as a unit for all legal purposes.

According to that stipulated in the Comm. C., companies incorporated in a foreign country which only have branches in Venezuela, keep their nationality but are considered as domiciled in the country. The branch must be registered with the Registry of Commerce, and the foreign company must publish its articles of incorporation and bylaws, in accordance with the foreign law, in a mercantile newspaper. These documents must be previously translated and legalized, as stated in this same article.

VII. Choice of entity

g. Joint venture or consortium:

A joint venture or consortium is an association of two or more legal entities and qualifies as an “association in fact” (de facto association). Even though it is similar to a company when referring to capability to perform business, it does not require having articles of incorporations or following the proper formalities of their publication, as required for a Sociedad Anónima. The Venezuelan Income Tax Law also provides specific rules applicable to joint ventures, as they should determine their net taxable income or losses, but any payable tax should be paid by the members of the joint venture instead. Registration of joint venture or consortium only needs a contract, signed by the parties at the presence of a public notary. A foreign entity may choose to operate in Venezuela directly under a joint venture or consortium. This business scheme is very common in some industry sectors.

The Venezuelan Income Tax Law also provides specific rules applicable to joint ventures, as they should determine their net taxable income or losses, but any payable tax should be paid by the members of the joint venture instead.



Thurpial (*icterus icterus*). National bird of Venezuela. Picture by Xacir

VIII. Corporate taxation

a. Income tax

Corporations resident in Venezuela are subject to corporate income tax (CIT) on their Venezuelan and foreign-source income, whereas corporations resident abroad with a permanent establishment (PE) in Venezuela are levied CIT only on their Venezuelan and foreign-source income attributable to said PE. Corporations are able to claim any similar taxes paid abroad on foreign source income as a tax credit. Non-resident corporations without a PE are subject to CIT only on Venezuela-source income.

Corporate income is taxed at the following progressive rates based on tax units (TU) (see below) (i.e. Tariff 2):

Taxable income			
Over (TU)	Not over (TU)	Rate (%)	Subtract (TU)
0	2,000	15	0
2,000	3,000	22	140
3,000	–	34	500

Tax units (TU)

The 1994 Income Tax Law reform established the concept of a taxable unit as an element that reduces the negative effects created by inflation on the determination of the tax rates. The Venezuelan Master Tax Code established the initial TU at 1 bolívar fuerte (VEF), with annual basis adjustments according to the variation on the consumer price index (CPI) from the previous year. For 2012, the TU value is VEF 90.

Additional rates and considerations

Income for oil exploitation and certain related activities is taxed at a flat rate of 50%. Related activities are comprised of those such as refinery, transportation, and purchases for the exports of hydrocarbons and by-products for their exploitation. Joint venture corporations are also subject to a 50% CIT rate.

The above indicated regime does not apply to 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, which are subject to Tariff 2.

Applicable corporate income tax rates can be summarized as follows:

General rate applicable to corporations - Progressive Tariff No. 2”

- Up to 2,000 TU: 15%
- From 2,000 TU to 3,000 TU: 22%
- From 3,000 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 no associated gas (and the processing, refining, transportation, distribution, commercialisation 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

VIII. Corporate taxation

Corporate residence

According to the Venezuelan Master Tax Code, the following companies are regarded as residents:

- Companies incorporated in Venezuela and registered with the Mercantile Registry as established by commercial law.
- Foreign companies registered with the Superintendence of Foreign Investments (SIEX) to be residents in Venezuela as branches duly registered with the Mercantile Registry.

The following companies are non-residents but subject to Venezuelan taxes:

- Foreign companies registered with SIEX to provide technical assistance, technological services, royalty items, and professional services from abroad.
- Foreign banks granting loans to local companies.
- Foreign companies leasing goods to local companies.
- Foreign companies deriving income from economic activities carried out in Venezuela or from assets in Venezuela.

Permanent establishment (PE)

According to the Venezuela Income Tax Law (VITL), generally, a passive party is deemed to be carrying out operations in Venezuela through a PE when:

- Directly or through an agent, employee, or representative in the Venezuelan territory, The passive party owns:
 - an office, fixed place of business, or an activity centre where its activities are totally or partially carried on,
 - management head quarters, branches, offices, factories, shops, facilities, warehouses, stores, construction, installations, or assembling works, when the duration thereof exceeds six months, or
 - agencies or representatives authorized (according to the VITL) to contract in the name of or on behalf of the passive party.
- The passive party performs, directly or through an agent, employee, or representative in the Venezuelan territory, professional, artistic activities.
- The passive party possesses, directly or through an agent, employee, representative, or other contracted personnel in the Venezuelan territory, other work places where the operations are wholly or partially performed.

Any agent acting independently shall be excluded from this definition, unless such representative has the power to conclude contracts in the name of the principal.

Group taxation

Group taxation is not possible in Venezuela.

VIII. Corporate taxation

Income determination

i. Inventory valuation

Inventories may be valued at cost or the lower of cost or market value. Any method generally accepted for accounting purposes can be accepted for tax purposes.

ii. Capital gains

Capital gains are taxable as ordinary income, and capital losses are deductible from ordinary income. Note that capital losses resulting from the sale of stock, capital reduction, or liquidation of a company are only deductible if they meet one of the following conditions:

- The cost of the capital stock was not in excess of the price quoted on a stock exchange or an amount with a reasonable relationship to the book value of the capital stock.
- The holding period of the investment was for at least two years immediately preceding the date of the sale.
- The stockholder proves that the company selling the shares carried on economic activities for at least two years, preceding the date of sale.

Income obtained through operation on the Venezuelan stock market is subject to a final 1% tax that is withheld at the source. Losses in this kind of operation are not deductible against other income. Corporate shareholders not domiciled in Venezuela may not deduct such losses from taxable income other than dividends arising from Venezuelan sources.

Gains upon liquidation or reduction of capital are taxable to the liquidating entity.

iii. Dividend income

A dividend tax is levied at a flat rate of 34% on the positive difference between book income and tax income generated after 2000. Book income is understood to be that approved at a shareholders' meeting and based on the financial statements prepared pursuant to generally accepted accounting principles. To determine the applicable difference, a last in first out (LIFO) method applies. The tax is triggered when dividend is paid and shall be remitted via withholding. Withholding is to be made at the moment a dividend is declared or credited to the account of a recipient. The 34% (domestic) rate can be mitigated under tax treaties.

Dividends obtained from companies incorporated or resident abroad or incorporated abroad and resident in Venezuela are taxed at a flat 34% rate.

Stock dividends

Dividends of stock are subject to payment of the aforementioned dividend tax. Moreover, stock dividends are subject to an advanced payment of dividend tax equivalent to 1% of the dividend distributed. Stock dividends have no cost for tax purposes.

iv. Branch income

Branches of foreign corporations are subject to the same tax rules as Venezuelan corporations. Inter-branch income and deductions must be eliminated. The positive difference between a branch's annual book and taxable income is deemed to be remitted to the branch's head office (branch profits tax). Such remittances are subject to the 34% flat dividend tax (see Dividend tax in the Income determination section for more information) regardless of whether there is an actual payment, unless the branch can provide proof of reinvestment of its profits for a five-year period. If such proof is established, no deemed remittance is assumed.

VIII. Corporate taxation

v. Interest income

Unless the debtor can prove otherwise, any sum paid by a debtor in excess of the principal is deemed to be interest. As a general rule, interest is sourced in Venezuela if it is derived from activities carried out in Venezuela or from property located in Venezuela. Specifically, interest is deemed to be derived from activities carried out in Venezuela if the loan principal is used or enjoyed in the country. Interest received by non-resident corporations is therefore, subject to Venezuelan income tax if the loan is granted or invested in Venezuela.

Interest paid on loans granted by non-resident financial institutions is subject to a final withholding tax at source at a rate of 4.95% on gross income. Interest paid to other non-resident legal entities is subject to tax at a rate of 34% applied to 95% of the gross income.

vi. Construction fees

Gross receipts of taxpayers engaged in construction projects lasting more than one year are determined on the basis of the actual costs incurred by the taxpayer on the project throughout the taxable year in proportion to the total cost of the project, regardless of the actual income received by the taxpayer during that taxable year (i.e., the percentage of completion method of accounting).

vii. Foreign income

Foreign source income is subject to Venezuelan CIT based on the concept of worldwide income taxation, according to which:

- Resident companies must pay a tax on total income whether from national or foreign source.
- Non-resident companies with PE in Venezuela will pay tax on their income, whether of national or foreign source, attributable to the Venezuelan PE.
- Non-resident companies will pay taxes on their income originated or caused in Venezuela.
- Resident companies as well as non-resident companies with PE in Venezuela may credit the tax paid abroad for earnings of an extraterritorial source against the income tax payable in Venezuela, subject to limitations.

In general terms, taxation of foreign-source income is ruled by domestic provisions on taxation of territorial-source income. Foreign source dividends are taxable when dividends are received. However, in case of investments located in Jurisdictions of Low Taxation (JLT), anti-deferral rules in the international fiscal transparency regime apply (see below).

viii. International Fiscal Transparency regime

A regime of international fiscal transparency is created for the purpose of establishing special standards of fiscal control, governing capital investments in countries classified as JLT, or tax havens.

Under certain conditions, a Venezuelan taxpayer may be required to recognize income generated in its JLFT subsidiary on an accrual basis in its tax return.

For such purposes, an investment is considered as located in a LTJ when any of the following circumstances takes place:

- When accounts or investments are held with institutions located in said jurisdiction.
- When a domicile or post office address is available.
- When there is an effective headquarter.
- When there is a permanent establishment.
- When the investing party is incorporated or physically present in said jurisdiction.
- When any kind of legal business is carried out, regulated or perfected pursuant to the legislation of such jurisdiction.

VIII. Corporate taxation

Yields on investments held in a LTJ will be considered as taxable on an annual basis when generated, proportionally to the direct or indirect participation in said investment. This provision will be applicable even if the income, dividends or profits have not been distributed. Except for proof to the contrary, the amounts received in a LTJ will be considered (on an annual basis) as gross income or dividends derived from such investments.

The ownership of this type of investments must be reported to the tax authorities by means of an information return.

ix. Foreign technical assistance and technological services

Taxable income of foreign taxpayers providing technical assistance or technological services from abroad to individuals or entities that use them in Venezuela or assign them to third parties is presumed to be 30% of gross income for technical assistance fees and 50% of gross income for technological service fees. If the contract does not specify the proportion in which the services are rendered, the law provides that 60% of the technical assistance and technological service fees are deemed to be rendered abroad (i.e. foreign-source), with the other 40% deemed to be rendered in Venezuela. The law also provides that 75% of the entire income related to technological services and 25% of that related to technological assistance is rendered abroad if not otherwise specified in the contract. See the Withholding taxes section for more information.

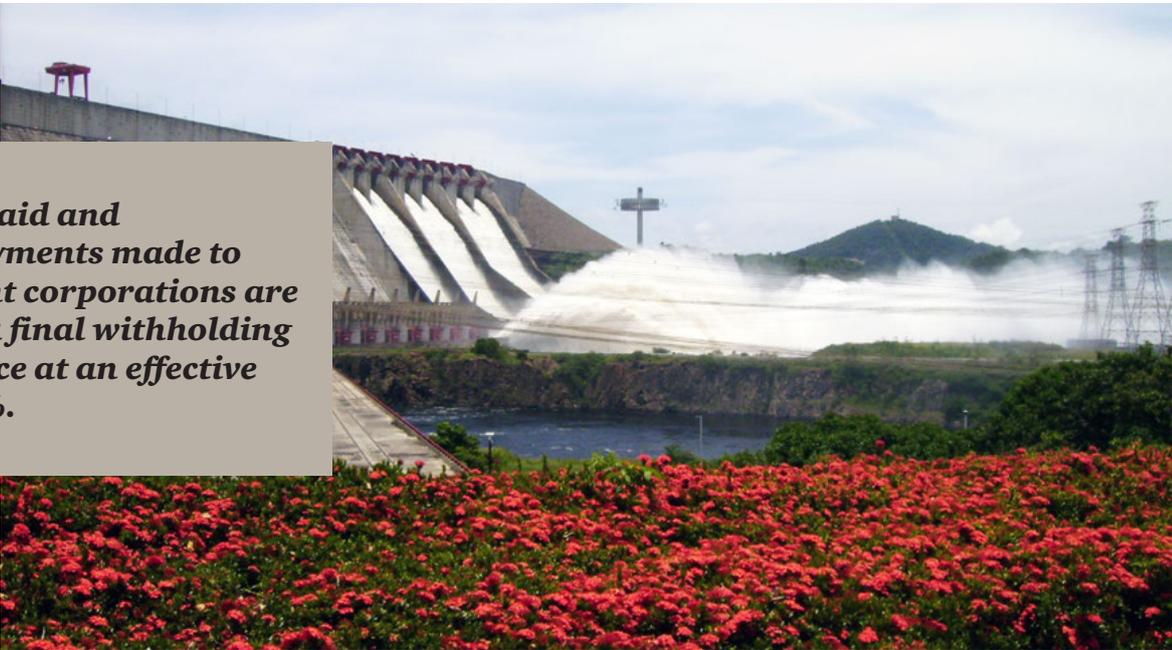
x. Royalties

Royalties and similar payments are sourced in Venezuela if the underlying industrial or intellectual property is used or exploited in Venezuela. Royalties paid and similar payments made to non-resident corporations are subject to a final withholding tax at source at an effective rate of 34%. Withholding tax is levied on 90% of the gross payment, which is deemed to be the recipient's net income.

xi. Inflation adjustment

A system has been established for the adjustment of non-monetary assets, non-monetary liabilities, and shareholder's equity. 'Non-monetary assets' include land, construction, machinery, vehicles, installations, inventories, and investments other than those involving securities (e.g. bonds and stocks).

There are two phases to the adjustments: (i) initial adjustments and (ii) annual adjustments. Both phases are mandatory adjustments for taxpayers engaged in commercial, industrial, financial, and insurance operations, and in the exploitation of mines and hydrocarbons. The annual adjustment is optional for taxpayers performing non-business activities.



Royalties paid and similar payments made to nonresident corporations are subject to a final withholding tax at source at an effective rate of 34%.

VIII. Corporate taxation

Initial adjustment

The initial adjustment on depreciable fixed assets requires a registration tax of 3% on the amount of the adjustment.

The initial adjustment must be filed at the closing date of any fiscal year ending after January 1, 1993.

This adjustment is applicable to all non-monetary assets and non-monetary liabilities.

The initial adjustment is calculated by applying the variations between the CPI of the Caracas Metropolitan Area prevailing in the month in which the non-monetary assets were acquired and the month corresponding to the initial adjustment. Assets acquired before 1950 are deemed to have been acquired in January 1950.

A registry tax of 3% is applied exclusively to the initial revaluation adjustment of depreciable fixed assets. For payment, taxpayers must be registered with the Asset Revaluation Registry, maintained by the tax administration. The resulting tax may be paid in three consecutive annual installments, beginning on the date of registration.

Companies in the pre-operating stage, deemed to end with the first invoice, must determine and pay a 3% tax once the pre-operating period has ended.

Depreciation or amortization on the revaluation adjustment is allowed, based on the original estimated life of the asset.

Annual adjustment

The annual adjustment is applied each year in determining taxable income. The adjustment factor must be applied to the following balance sheet items at the closing date of the fiscal year. The resulting adjustment will increase or decrease taxable income.

Balance sheet items	Adjustment factor	Tax effect
Non-monetary assets:		
Inventories (including inventories in transit) (2)	Annual variation of the CPI	Increase taxable income
Fixed assets (3)	Annual variation of the CPI	Increase taxable income
Other assets, trademarks, patents, production licenses, other rights, and investments in stock not registered in the <i>Superintendencia Nacional de Valores</i> (SNV) and deferred charges (except interest).	Annual variation of the CPI	Increase taxable income
Investments in shares registered in the SNV	Adjusted to the share market value at the end of the year	Increase taxable income
Non-monetary liabilities: Deferred credits (except interest)	Annual variation of the CPI	Decrease taxable income
Equity: Tax initial equity (1)	Annual variation of the CPI	Decrease taxable income

See Notes (next page)

VIII. Corporate taxation

Notes (related to annual adjustment, prior page)

1. Tax initial equity is defined as the difference between assets and liabilities at the beginning of the tax year, less accounts receivable from administrators, affiliated, and related companies. In order to determine the initial tax equity, assets not located in the country as well as goods, debts, and liabilities entirely applied to the production of deemed, exempt, or exonerated income are excluded.
2. Inventories are to be valued at historical cost for purposes of applying the CPI. The provisions of the income tax law detail the procedures for applying the CPI. The revaluation of inventories in the tax year is included as part of the initial inventories of the following year.
3. The annual revaluation adjustment of fixed assets is considered part of the cost when the assets are sold. Net losses arising from the annual adjustment that have not been offset may be carried forward only to the next tax period (one year).

Gains or losses originating from the adjustment of accounts receivable or investments, as well as debts and liabilities in foreign currency or with a re-adjustability clause are deemed to be carried out during the fiscal year in which they become demandable, collected, or paid, whichever comes first.

Deductions

i. Limitations on deduction of employees' compensation

Salaries and similar remunerations paid to administrators, their spouses and minor descendants will be deductible, provided they do not exceed fifteen percent (15 %) of the company's gross income. Likewise, the Tax Administration is entitled to reject payments associated with salaries and other concepts related to any excess in the percentage stipulated in the Venezuelan Labor Law (20%), for payroll of expatriate personnel. Also, corporate tax deduction of foreign employees' compensation may be rejected when the proper work permits have not been obtained by the employer.

Payments required by the labor law, such as profit sharing (generally between 15 days and four months' salary) and severance indemnity accruals are also deductible. In cases of unjustified dismissals, double severance indemnities must be paid. However, accruals for such additional indemnities are generally not deductible until paid.

ii. Depreciation and amortization

Companies may deduct depreciation of tangible fixed assets and amortization of intangible fixed assets that are used in the production of income. Depreciation is generally computed on a straight-line basis although any other generally accepted method for accounting purposes is also accepted.

Depreciation is not allowed on real estate used as rental property. Depreciation on the stepped-up portion of assets revalued by any method other than the inflation adjustments (see the Income determination section) is not permitted.

In principle, useful lives of assets shall be consistent with the parameters used in accordance with accounting principles. Although domestic standards provide that tables with depreciation and amortization rates to be applied by taxpayers may be provided via the Income Tax Rules, such a table has not been provided to date.

iii. Organizational and pre-operating expenses

Domestic income tax regulations do not provide for specific guidance as to the treatment of organizational and pre-operating expenses. The accepted practice is to follow generally accepted accounting principles.

iv. Interest

Interest paid on a loan the principal of which is invested to generate income is deductible.

VIII. Corporate taxation

v. Bad debts

Losses arising from bad debts are deductible provided that:

- The loan in question was granted as part of the taxpayer's business;
- The amount of the debt was previously included in the taxpayer's gross revenue (except in the case of loans granted by financial institutions or by employers to their employees); and
- Either the debtor or his guarantors are insolvent or the amount of the loan does not justify collection expenses.

vi. Charitable contributions

Deductions for allowable charitable contributions are limited to 10% of taxable income (before deducting contributions) when taxable income does not exceed TU 10,000. When taxable income exceeds TU 10,000, charitable contributions are limited to 8% of taxable income. For oil extraction companies, the deduction is limited to 1% of the pre-contribution tax amount.

vii. Taxes

Municipal, state, and local taxes are deductible in determining taxable income. Corporate income taxes are not deductible.

viii. Net operating losses

Losses may be carried forward for three years. Losses may not be carried back. Note that losses from inflation adjustments may be carried forward only one year.

Foreign losses may be offset only against foreign profits.

ix. Payments to foreign affiliates

A Venezuelan corporation may claim a deduction for royalties and technical assistance and for technical service fees paid to foreign affiliates, subject to the following conditions:

- Income tax payable by the recipient is withheld at the source.
- Transfer pricing requirements are met.
- In the case of technical assistance and technological services fees, the expenses may be deducted if such services cannot be otherwise provided in Venezuela.

Foreign companies domiciled in Venezuela are allowed to deduct royalties paid to parent companies or foreign affiliates. Branches of foreign companies, however, may not deduct such payments made to head offices or related parties.

x. Thin capitalization

Thin capitalization rules limit the deduction of interest from debt with related parties in excess of a 1:1 debt-to-equity ratio. Under these rules, if the average of a taxpayer's debt (with related and unrelated parties) exceeds the average amount of its equity for the respective fiscal year, the excess debt is treated as equity for income tax purposes. Consequently, the ability to deduct interest on related-party loans may be affected.

Tax credits and incentives

i. Foreign tax credit

Foreign income tax paid on taxable foreign income may be offset with the payable Venezuelan tax, up to the proportion of Venezuelan tax payable in relation to foreign-source income. Taxpayers must keep documentation of foreign tax. No carry forward rules are provided for in domestic regulations.

VIII. Corporate taxation

ii. Capital investment

A special 10% investment tax credit is granted on the value of new investments in fixed assets (excluding land) 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 the productive capacity or creating a new enterprise.

The tourist sector is entitled to a 75% investment tax credit on the amount of new investments. The agricultural sector enjoys an 80% investment tax credit.

An additional 10% tax credit is granted on the amount of investments in assets, programs, and activities aimed at the preservation and protection of the natural environment.

The above incentives expired in 2012. According to the most recent opinions of the tax authorities, these incentives expired on February 16, 2012.

Investment tax reductions may be carried forward up to three years.

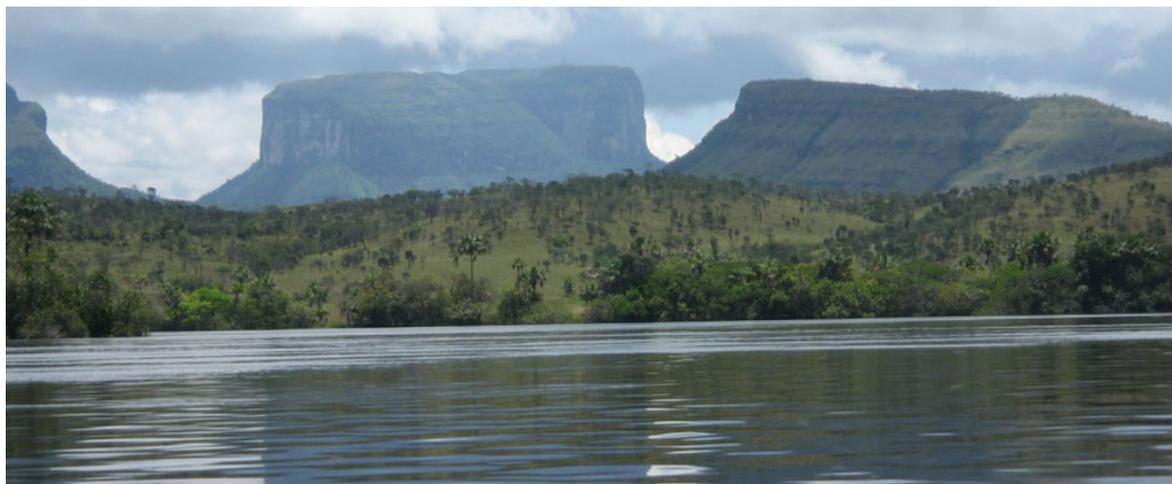
iii. Other income tax incentives

Income tax exemption on specific activities

Venezuelan source net income derived by resident entities from the primary exploitation of agricultural, forest, livestock, poultry, fishing and aquacultural activities is tax exempt for income tax purposes provided that the total benefit of such exemption is totally re-invested in research and scientific and technological development in connection with the aforesaid activities, improvement of production or capital goods. The aforesaid exemption has been granted by Decrees where the benefit has been periodically extended. The most recent exemption was granted by Decree published on May 2011 and will be applicable until December 31, 2012. Compliance with formal and material tax obligations are, amongst others, also provided as additional requirements for the exemption.

Income tax exemption for development of specific areas

Partial income tax exemption on net income obtained from the national production in manufacturing activities carried out in States Delta Amacuro, Amazonas, Apure, Portuguesa, Barinas, Guárico, Trujillo and Sucre covered by Complementation Agreements of Sectorial Policies (Convenios Complementarios de Políticas Sectoriales) was originally granted by Decree published in 2002. The exemption is equivalent to thirteen percent (13%) of the determined income tax. In order to take advantage of the exemption, the production activities must relate to establishments domiciled in any of the aforesaid states and technical assistance and transfer of technology must be offered to such establishments. The aforesaid exemption is applicable until November 21, 2012.



VIII. Corporate taxation

Tax administration

i. Tax returns

Income tax (IT) returns must be filed within three (3) months following the close of the taxpayer's fiscal year. A specific category of taxpayers (known as "Special Taxpayers") must file their tax returns according a specific schedule issued by the Tax Administration (SENIAT, by its Spanish acronym). The company may choose its own tax year. Prior authorization from the SENIAT is required in order to obtain an extension of the deadline to file IT returns

ii. Payment of tax

Taxpayers that declared taxable income of more than one thousand and five hundred tax units (TU 1,500) for the previous year must file an estimated IT return. The advanced IT due, should be paid up to six (6) monthly, consecutive and equal installments, from the sixth (6th) month subsequent to the close of the period. Companies engaged in mining, hydrocarbon exploitation, and related activities must make 12 equal monthly estimated tax payments. The estimated income should not be less than eighty percent (80%) of the taxable income of the previous year.

Withholding taxes

Resident corporations making certain types of payments must withhold taxes. T2 refers to Tariff 2. These include the following:

	Resident (%) (1)		Non-resident (%)	
	Corporation	Individual	Corporation	Individual
Commissions (2)	5	3	5	34
Dividend (5)	34	34	34	34
Royalties (3)	5	3	T2 on 90	34 on 90
Interest to foreign financial institutions	N/A	N/A	4.95	N/A
Other interest	5	3	T2 on 95	34 on 95
Professional fees	5	3	T2 on 90	34 on 90
Technical assistance fees (3)	5	3	T2 on 30	34 on 30
Technological service fees (3)	5	3	T2 on 50	34 on 50
Real estate rentals	5	3	5	34
Tangible personal property rentals	5	3	5	34
Contractor and subcontractor services	2	1	T2	34
Film and television exhibition rights	5	3	T2 on 25	34 on 25
Insurance and reinsurance premiums	N/A	N/A	10 on 30	N/A
Payments to international media organizations	5	3	T2 on 15	N/A
Acquisition of Venezuela commercial funds	5	3	5	34
Payments to non-domiciled international transportation companies (4)	N/A	N/A	T2 on 5	N/A

See Notes (next page)

VIII. Corporate taxation

Notes (related to withholding taxes, prior page)

1. Withholding taxes (WHTs) constitute prepayments against final tax liabilities as determined by the income tax return when filed.
2. Includes commissions earned in instances other than through a dependent relationship (e.g. employer/employee). Commissions are subject to withholdings in the same manner as salaries and wages.
3. The rates for non-residents are similar to those rates applicable for payments to a non-domiciled corporation not resident in a treaty country and rendering services from abroad with no PE in Venezuela.
4. Excludes payments exempted under international shipping agreements.
5. Withholding applicable only on the excess on profits taxed at the corporate level.

Tax treaties

The benefits of the Treaties to avoid double taxation entered into between Venezuela and other countries, will only be applicable when the taxpayer shows, at any given time, that is a resident of the country in question, and the provisions established in the respective treaty are complied with. There are currently comprehensive treaties for the avoidance of double taxation with the following countries:

Recipient	WHT (%)		
	Dividend	Interest	Royalties
Non/treaty ¹	34	4.95/T2 on 95 ²	T2 on 90%
Austria	5/15 ³	4.95/104	5
Barbados	5/10 ⁵	5/15 ⁶	10
Belarus	5/15 ⁷	5	5/10 ⁸
Belgium	5/15 ⁹	10	5
Brazil (not in force)	10/15 ¹⁰	15	15
Canada	10/15 ¹¹	10	5/10 ¹²
China	5/10 ¹³	5/10 ¹⁴	10
Cuba	10/15 ¹⁵	10	5
Czech Republic	5/10 ¹⁶	10	12
Denmark	5/15 ¹⁷	5	10/5 ¹⁸
France	0/5/15 ¹⁹	5	5
Germany	5/15 ²⁰	5	5
Indonesia	10/15 ²¹	10	20/10 ²²
Iran	5/10 ²³	5	5
Italy	10	10	7/10 ²⁴
Korea	5/10 ²⁵	5/10 ²⁶	5/10 ²⁷
Kuwait	5/10 ²⁸	5	20
Malaysia	5/10 ²⁹	15	10
Mexico (not in force)	5	4.95/10/15 ³⁰	10
Netherlands	0/10 ³¹	5	5/7/10 ³²
Norway	5/10 ³³	5/15 ³⁴	12/9 ³⁵
Portugal	10	10	12/10 ³⁶
Qatar	5/10 ³⁷	5	5
Russia	10/15 ³⁸	5/10 ³⁹	15/10 ⁴⁰
Spain	0/10 ⁴¹	4,95/10 ⁴²	5
Sweden	5/10 ⁴³	10	7/10 ⁴⁴
Switzerland	0/10 ⁴⁵	5	5
Trinidad & Tobago	5/10 ⁴⁶	15	10
United Kingdom	0/10 ⁴⁷	5	5/7 ⁴⁸
United States	5/15 ⁴⁹	4.95/10 ⁵⁰	5/10 ⁵¹
Vietnam	5/10 ⁵²	10	10

See Notes (next page)

VIII. Corporate taxation

Notes (related to tax treaties, prior page)

1. Domestic rate applicable to payments to non-resident corporations.
2. The 4,95% rate applies to non-resident financial institutions and the Tariff 2 on 90% on the gross income in all other cases of non-resident entities.
3. The 5% rate applies when the beneficial owner is a company which holds at least 15% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
4. The 4,95% rate applies to interest paid to Banks and the 10% rate applies in other cases.
5. The 5% rate applies when the beneficial owner is a company which holds at least 5% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
6. The 5% rate applies to interest paid to Banks and the 15% rate applies in other cases.
7. The 5% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
8. The 5% rate applies to payments for the use or the right to use copyrights on scientific work, software, trademarks or for the use or the right to use any type of equipment or transportation vehicles. The 10% rate applies in all other cases.
9. The 5% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
10. The 5% rate applies when the beneficial owner is a company which holds at least 20% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
11. The 10% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
12. The 5% rate applies to artistic copyright, computer software, patent and industrial, commercial and scientific royalties.
13. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
14. The 5% rate applies to interest paid to Banks and the 10% rate applies in other cases.
15. The 10% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
16. The 5% rate applies when the beneficial owner is a company which holds at least 15% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
17. The 5% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
18. The 10% rate applies to royalties and the 5% rate applies to technical assistance.
19. No withholding applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends. The 5% rate applies in all other cases. The 15% rate applies to a resident of Venezuela who receives from a company which is a resident of France dividends which would give the right to a tax credit ("avoir fiscal") if they were received by a resident of France shall have the right to a payment from the French Treasury of an amount equal to this tax credit ("avoir fiscal"), subject to deduction of the tax.
20. The 5% rate applies when the beneficial owner is a company which holds at least 15% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
21. The 10% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
22. The 20% rate applies to royalties and the 10% rate applies to technical assistance.
23. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
24. The 7% rate applies to literary, artistic and scientific work copyright royalties and the 10% rate applies in other cases.

VIII. Corporate taxation

Notes (related to tax treaties, prior page)

25. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
26. The 5% rate applies to interest in case of Banks and the 10% rate in other cases.
27. The 5% rate applies to royalties paid for the use of industrial, commercial or scientific equipment. The 10% rate applies in other cases.
28. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
29. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 10% rate applies in all other cases.
30. The 4,95% rate applies to interest in case of banks and insurance companies. The 10% applies to the aforesaid entities when the payment is carried out by banks. The 15% applies in other cases.
31. No withholding applies when the beneficial owner is a company whose capital is totally or partially divided into shares and controls at least 25% of the capital of the company paying the dividends. The 10% rate applies in other cases.
32. The 7% rate applies to patent royalties and to industrial, commercial and scientific equipment royalties; the 7% rate applies to trademark royalties and the 10% rate applies to literary, artistic and scientific work copyright rates.
33. The 5% rate applies if the beneficial owner is a company that directly controls at least 10% of the company paying the dividends.
34. The 5% rate applies to interest paid to Banks and the 15% rate applies in other cases.
35. The 12% applies in case of royalties and the 9% rate applies to technical assistance.
36. The 12% rate applies in case of royalties and the 10% rate applies to technical assistance.
37. The 5% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and the 15% rate applies in all other cases.
38. The 10% rate applies when the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends and has invested in this company not less than the equivalent to USD 100,000. The 10% rate applies in all other cases.
39. The 5% rate applies to interest in case of Banks and the 10% rate in other cases.
40. The 15% rate applies to royalties and the 10% rate applies to technical assistance.
41. No withholding applies when the beneficial owner is a company whose capital is totally or partially divided into shares and controls at least 25% of the capital of the company paying the dividends. The 10% rate applies in other cases.
42. The 4,95% rate applies to interest in case of banks. The 10% rate applies in other cases.
43. The 5% rate applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends. The 10% rate applies in all other cases.
44. The 10% rate applies to literary, artistic and scientific work copyright royalties and the 7% rate applies in other cases.
45. No withholding applies when the beneficial owner is a company controls at least 25% of the capital of the company paying the dividends. The 10% rate applies in other cases.
46. No withholding applies when the beneficial owner is a company which holds at least 25% of the capital of the company paying the dividends. The 10% rate applies in other cases.
47. No withholding applies when the beneficial owner is a company which controls at least 10% of the capital of the company paying the dividends. The 10% rate applies in other cases.
48. The 5% rate applies to patent and trademark literary, artistic or scientific work copyrights including films and the 7% rate applies in other cases.
49. The 5% rate applies if the beneficial owner is a company that owns at least 10 percent of the voting stock of the company paving the dividends. The 15% rate applies in other cases.
50. The 4,5% rate applies to interest to financial institutions (including insurance companies) and the 10% applies in other cases.
51. The 5% rate applies to industrial, commercial and scientific equipment royalties and the 10% rate applies in other cases.
52. The 5% rate applies if the beneficial owner is a company which controls at least 10% of the capital of the company paying the dividends. The 10% rate applies in other cases.

VIII. Corporate taxation

b. Transfer pricing regime

In 2001, Venezuela introduced transfer-pricing rules based on the internationally accepted arm's length standard. The Venezuelan Master Tax Code establishes several transfer pricing principles, including:

- Penalties relating to non-compliance with transfer pricing regulations.
- Specific rules for transfer pricing audit procedures.
- The introduction of Advanced Pricing Agreements (APA) into the Venezuelan Tax System.

Venezuelan transfer pricing standards adopt the arm's length principle for intercompany transactions, implement the 1995 OECD transfer pricing guidelines and eliminate the safe harbor regime established on 1999. Also, the rules impose transfer pricing documentation and filing requirements and contain APA provisions.

Under the current rules, taxpayers are specifically required to base intercompany transactions on arm's-length principle for tax reporting purposes, notwithstanding the prices actually used. For these purposes, related parties are defined as parties that are directly or indirectly managed, controlled or owned by the same party or group of parties; intermediary agents; and any relationship between a Venezuelan taxpayer and entities located in LTJ. In this regard, it is not completely clear that related parties are not only foreign companies, but also related parties located in Venezuela according to the definition mentioned above.

However, the Venezuelan Income Tax Law establishes that transfer-pricing methodologies are only applicable to transactions involving importation and exportation of goods and services. The arm's length principle applies to all transactions, including transfers of tangible and intangible property, services and financial arrangements. The SENIAT is entitled to make adjustments if a taxpayer fails to comply with this obligation.

The transfer pricing methods specified in the Venezuelan ITL are basically identical to those contained in the OECD Guidelines:

- Comparable uncontrolled price (CUP) method (CUPM).
- Resale price method (CPM).
- Cost plus method (RPM).
- Profit-split method (CPM).
- Transactional net margin method (TNMM).

There is a preferred method rule that requires the taxpayer to document the rationale for choice of methodology. The first method to be evaluated by the taxpayer must be the CUPM. On December 2010, the Venezuelan tax authorities issued an Administrative Order introducing the procedure for the calculation and use of the arm's length range for purposes of implementing the transfer pricing methods. Also, the procedure establishes that when the price, amount or margin of the transaction carried out with foreign related parties is not within the arm's length range, the taxpayer must adjust the results to the median. The procedure confirms the use of the inter-quartile range.

Transactions and arrangements with foreign related parties must be reported to the tax authorities through the Transfer Pricing Informative Return (or "Forma PT-99"), which must be filed within the first six months following the end of the fiscal year. This informative transfer pricing return must illustrate the following aspects:

- Types of intercompany transactions.
- The dates on which the transactions were celebrated.
- The amounts of each type of transaction.
- The transfer pricing method applied and the result of each transaction (i.e. profit or loss).
- Further appendices require the taxpayer to disclose a related and unrelated party segmentation of the profit and loss statement.

VIII. Corporate taxation

c. Value Added Tax

Federal VAT (*Impuesto al Valor Agregado or IVA*), is a one-time tax payable by the ultimate consumer of all types of products and services. However, each business entity involved in the process from the sale of raw materials to the production and distribution of finished products to the ultimate consumer is required to include the tax on its products to customers (output tax) and to pay the tax on its purchases or imports of goods and services (input tax), crediting the amounts paid against the amounts due on its own activities. The net amount payable by each entity is considered to represent a tax on the value added.

In general, VAT does not represent an additional cost to business enterprises because even though all types of business enterprises, including government departments and agencies (with some exceptions), are required to accept charges of the tax by suppliers on their purchases of goods and services, such amounts are normally deductible from the liability of the business enterprises for the tax on their bills to customers.

There are exceptions, principally when the sales of an enterprise are exempt from VAT, in which case the enterprise is treated as the final consumer and must absorb any VAT charges on its purchases except insofar as its activities are subject to the zero rate (see below). However, input tax paid on goods or services used to produce items that are exempt from VAT may be deducted for CIT purposes.

Taxable transactions

In general, VAT is payable on all sales, rental, and importation of goods, and rendering of services executed or used in the country, although a number of significant exceptions are provided by law.

Sales of goods

The law defines a sale as any transfer of tangible goods, including those made on a conditional basis or through an irrevocable trust. The taxable amount of a sale includes the sale price as well as other amounts charged to the purchaser for other taxes, duties, interest, or surcharges of whatever nature. VAT becomes payable when the goods are invoiced or delivered to the customers or when the price is paid in full or in part.

Exempt sales include the following:

- Certain foods and other products for human consumption.
- Fertilizers as well as any natural gas used in the manufacturing thereof.
- Some products for animal consumption.
- Medicines.
- Products derived from hydrocarbons and some raw materials intended to improve the quality of gasoline.
- Wheelchairs.
- Books, magazines, newspapers, and the paper used in producing these products.
- Vehicles, aircraft, and trains for passenger transport.
- Machinery and equipment for agribusiness.
- Scientific equipment purchased by the government.
- Services

Services

Taxable services are those rendered within Venezuela by one person to another on an independent basis, transportation of passengers or goods, agency activities, technical assistance, and transfer of technology. VAT is payable to service providers at the time the invoice is issued, the service is rendered, or the fee becomes demandable, whichever comes first. The taxable amount includes not only the price of services, but also charges to the customers for other taxes, interest, etc.

VIII. Corporate taxation

Exempt services include the following:

- Domestic land and maritime transportation of passengers.
- Educational services.
- Accommodations for students and persons with disabilities.
- Healthcare and dental services, surgery, and hospitalization.
- Theatres, sports, and cultural events.
- Food services for employees and students.
- Certain utilities (e.g. electricity, water).
- Housecleaning.
- Transport services for hydrocarbon-derived fuels.
- Services involving livestock, poultry, and other minor species including breeding and production.

Exports

Exports are zero rated. Consequently, VAT is not payable on exports, including exports of in-bond processing companies, technical fees to foreign residents, and sales to in-bond processing companies and companies that export their entire production. Sale of natural hydrocarbon by joint ventures regulated by the Hydrocarbon Law to Petroleos de Venezuela S.A. (PDVSA) and affiliated companies are also taxable at 0%. Though exporters do not collect VAT on export sales, they may recover VAT charges on their purchases of goods and services by means of a refund certificate. This certificate may be used to pay other tax obligations. If such exporters carry out sales in the country, they will be entitled to recover only input VAT related to foreign sales.

Additionally, a zero rate applies to independent personal services provided by residents in Venezuela that are used solely by and for the benefit of persons abroad without a PE or fixed base in Venezuela.

Tax rates

The rate may change every year, within the range of 8% to 16.5%. Currently the general VAT rate is 12%.

An additional tax rate of 10% is applicable to the sale and imports of luxury products (e.g. vehicles valued at more than 30,000 United States dollars [USD], motorcycles with a cylinder capacity of 500 cc, nickel or token game machines, aircraft used for recreational or sport purposes, fighting bulls, trained horses, caviar, jewelry with precious stones valued at a price exceeding USD 500).

An 8% VAT applies to the following transactions:

- Goats, sheep, and minor species for slaughter or breeding.
- Meats in their natural state, or refrigerated, frozen, or salted meats, or meats in brine of goats, sheep, and poultry.
- Shortening.
- Rendering of professional services to any government entity, in any level or branch of government, provided such services do not involve any commercial transactions but rather predominantly intellectual work or efforts.
- Domestic air passenger transportation.

Payment and collection

Excess VAT charged or chargeable to customers over VAT paid to vendors or the tax and customs administration (Servicio Nacional Integrado de Administración, Aduanera y Tributaria or SENIAT) including the correspondent payment, must be remitted to SENIAT within the first 15 days of the following month.

VAT exoneration

Among the fiscal policy measures applicable pursuant to the conjunctural, sectorial, and regional situation of the country's economy, the National Executive is entitled to exonerate the import and sales of goods and the rendering of services set forth in the respective decree from the payment of VAT.

VIII. Corporate taxation

Refunds/special regime for industrial projects

The VAT law stipulates a special regime for taxpayers engaged in the execution of industrial projects, whose duration exceeds six taxable periods. Pursuant to this regime, 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.

Input VAT subject to recovery must be determined after computing output VAT. In other words, input VAT originated from purchases of goods and reception of services is not subject to recovery if output VAT was not subtracted.

VAT withholding regimes

Taxpayers qualified by the tax administration as special taxpayers and public entities are designated as liable parties in their capacity as withholding agents in regard to payment of the VAT generated in their purchase of tangible goods or services received by providers that are regular taxpayers for VAT purposes.

The amount to be withheld on the part of the agents will be equal to multiplying the invoiced price of the taxed goods or services by 75% of the tax rate, except for those cases in which the VAT does not appear separately from the price, when the respective invoice does not comply with the formalities or requirements set forth in the tax law, or when the supplier is not registered for tax purposes. In these latter cases, 100% of the generated tax is to be withheld. Suppliers may discount the VAT withheld from the tax liability determined for the period in which the VAT was withheld, provided that they have the receipt issued by the withholding agent. In those cases in which the tax withheld from the taxpayer exceeds the taxpayer's VAT liability corresponding to the relevant tax period, such taxpayer may discount the tax withheld from VAT liability corresponding to the following tax periods until their total exhaustion.

d. Custom duties

As a general rule, the importation of goods into Venezuela is subject to customs duties. These duties are generally levied on the cost, insurance, and freight (CIF) value of the product being imported, excluding VAT.

Custom duty rates generally range from 5% to 35%. The duty rates vary depending on the product involved. In general, import tariffs are 5% for capital goods, 10% to 15% for raw materials and intermediate goods, and 15% to 35% for finished products. In addition, all imports are subject to customs handling charge, a duty import, and VAT.

VIII. Corporate taxation

e. Excise taxes

Tax on alcohol and alcoholic beverages

In general terms, the manufacture, commercialization, and importation of alcohol and alcoholic beverages are subject to excise taxes. The Law of Tax on Alcohol and Alcoholic Beverages provides for three main types of excise taxes:

- Tax on the national production and importation of alcohol and alcoholic beverages, which is established on the basis of TU per liter and varies depending on the type of product.
- Additional excise tax per liter for national and imported beer and for other alcoholic beverages is levied on the sale of those products to the public, which is also provided on the basis of TU per liter, depending on the type of product.

In addition to the above, another excise tax is imposed on the importation or local sale of national and imported alcoholic beverages to the public. This sale is levied on the sales price, which is provided on the basis of a percentage on the price of sale to the public and varies depending on the type of product.

Tax on cigarettes and manufacturing of tobacco

The importation and national production of cigarettes and tobacco to be consumed in Venezuela is subject to an excise tax. This proportional tax is levied at a rate of 70% on the retail price of cigarettes, tobacco, and its derivatives.

f. Municipal (local) taxes

Municipal business license tax

Companies and business entities, as well as individuals and unincorporated companies, are subject to municipal tax on gross income from industrial or trade activities carried on in the municipality during the fiscal year. The rates range from 0.1% to 10.0%, depending on the activity and the municipality.

Urban Property Tax

The Urban Property Tax is a local or municipal tax payable by any person who owns property rights or any other real rights on urban real estates. The taxable basis is the value of the urban real estate. For these purposes, the fair market value of the real estate is provided as a point of reference. The applicable rate varies according to each municipality.

Other municipal taxes

Municipalities also tax vehicles, public entertainment, legal gambling, and commercial advertisements. There are also various municipal tariffs and fees.

VIII. Corporate taxation

g. Inheritance and Gift Taxes

Overall, the Inheritance and Donations Tax Law, published on 1999, stipulates the taxes attributable to inheritances left by individuals. Nonetheless, this Law provides regulation about donations, which are significant to corporations. Subject to payment of the gift tax are the beneficiaries of gifts in the form of movable or real property, rights, or shares located in the country.

For tax calculation purposes, the progressive tax rate (up to 55%) set forth in the Law will be applied to the donated good. Both donors and donees are jointly liable for the tax generated from the gift.

The gift tax is applicable from the time in which the donors manifest before the National Treasury their will to donate and must be paid before the registration of any document formalizing or evidencing the authenticity of the gift. Should the donation not be perfected due to express will of the donor or rejection on the part of the donee, the obligation to pay the tax will be eliminated and reimbursement may be requested of the amounts paid in this connection.

Under the transfer pricing rules contained in the Venezuelan Income Tax Law, the tax authorities are empowered to impute income in inter-company transactions at a price reflecting the fair market value of the property being transferred.

Before the introduction of transfer pricing rules, under the Inheritance and Donations Tax Law, the tax authorities could and still can presume in transactions involving a sale, assignment, barter, or transfer, the existence of a donation if, for instance, the price stipulated in such transaction does not reflect the real value of the property being transacted. In such a case, a gift tax may be imposed on the difference between the fair market value of the property being transacted and the consideration received in return.

Also, a cancellation of a debt gives rise to gift tax issues. In this regard, the Inheritance and Donations Tax Law provides that the total or partial forgiveness or cancellation of a loan must be viewed as a gift and, as such, subject to gift tax.

h. Oil & Gas industry taxation

Royalties

The state is entitled to 30% of the volume of hydrocarbons extracted from any deposit, by way of royalties. The National Executive can reduce this rate within certain limits, when it is shown that certain types of deposits are not economically exploitable.

Persons conducting activities related to hydrocarbons must pay the following taxes:

Surface tax

For the portion of the surface area granted that is not under development, the equivalent of 100 TU for each square kilometer or portion of a square kilometer for every elapsed year is due as a surface tax. This tax will increase annually by 2% during the first five years and 5% during the following years.

Tax on own consumption

10% of the value of each cubic meter of hydrocarbon by-products produced and consumed as fuel in wholly-owned operations, based on the price for final consumers, is due as a tax. In the case that said product fails to be sold in a domestic market, the Ministry of Energy and Mines shall provide the price.

VIII. Corporate taxation

General consumption tax

For every liter of hydrocarbon by-products sold in the domestic market, a tax is due at a rate ranging from 30% to 50% of the price paid by the end consumer, whose. The respective tax rate should be implemented annually between the two ranges under the Budget Law. This levy to be paid by the end consumer should be withheld at the supply source, and is to be handed over to the National Treasury on a monthly basis.

By the time specified, the National Executive may waive, in whole or in part the general consumption tax, in order to encourage certain activities of public or general interest. The National Executive can also reinstate this levy to its original level when the causes for the waiver cease to exist.

Taxes and investment obligations provided for Joint Venture Oil Companies (*empresas mixtas*)

Additional royalty

Oil and Gas operating companies must pay an additional 3.33 per cent on the value of the volume of crude extracted from the site.

Special advantage

Joint venture oil companies must pay, on a yearly basis, the difference between:

- 50 per cent of the value of the hydrocarbons extracted from the area of operation during each calendar year; and
- The sum of the additional royalty payments, income tax or any other taxes based on gross or net income and 1 % percent social investment in endogenous development.

Social investment in endogenous development

Oil-related Joint ventures are obliged to implement a policy of endogenous development aimed at preservation of cultural and biological diversity, minimization of adverse environmental effects and social responsibility. Investments in programs under such policy in a calendar year must amount to 1% of pre-tax profits pertaining to previous calendar year.

VIII. Corporate taxation

Windfall tax on oil production

Decree N° 8.163, dated April 18, 2011 provides for a Special Contribution from Extraordinary and Exorbitant crude prices in international markets. According to the enacted Decree, the tax is established in the following terms:

- The contribution on extraordinary oil prices is a 20% tax on the difference in price when the internationally quoted price per barrel exceeds the budgeted price per barrel (for purposes of the Venezuelan Annual Budget Law), provided that the quoted price per barrel is equivalent to, or lower than, USD 70 per barrel (i.e. the maximum basis is the difference between USD 70 per barrel and the current budgeted price of USD 50).
- The contribution on exorbitant oil prices is comprised of the following:
 - 80% tax on income generated by quoted oil prices between USD 70 and USD 90 per barrel (i.e. 80% on the range from USD 70 to USD 90 quoted price per barrel).
 - 90% tax on the difference in the quoted oil prices between USD 90 and USD 100 per barrel.
 - 95% tax on the difference over the threshold of USD 100 per barrel.

The tax is payable by oil companies exporting for sale purposes. Also, joint venture oil corporations that sell oil and by-products to the state-owned company (PDVSA), or any of its affiliates, are also obliged to pay the above described tax.

On the other hand, tax exemption is provided for the following cases:

For mixed companies working on the execution of projects on the development of new oil fields and those projects aimed at boosting oil production as declared by the Ministry of the People's Power for Oil and Energy, until they have recovered their total investment. Parameters to determine the recovery of investment are to be separately established by the aforesaid Ministry by Resolution. Exports executed in connection with cooperation or financing international agreements. Exonerations may be granted by the National Executive Power for exports executed under economic or international cooperation measures.

The tax is payable on a monthly basis in foreign currency. Other terms of payments are to be regulated by Resolution.

The Decree also establishes USD 70 per barrel as the maximum price to be used as calculation basis for the payment of royalties, extraction tax, and export registration tax provided for in the Master Hydrocarbons Law.

The Decree was partially amended on February 27, 2012 to establish that PDVSA will act as tax collecting agent.

Master Law on Gaseous Hydrocarbons

Master Law on Gaseous Hydrocarbons establishes a system of royalties, determinable by the volumes of gaseous hydrocarbons extracted from any deposit and not re-injected. The state is also entitled to a 20% share for this item.

Companies engaged in the exploitation of gaseous hydrocarbons shall pay the taxes settled down by applicable laws for the gaseous hydrocarbons consumed like fuel.

VIII. Corporate taxation

i. Public registry tax

Commercial companies are registered with the Mercantile Registry Office and are subject to a tax levied upon incorporation of a company and registration of capital increases. The tax is 1% of the amounts of subscribed or increased capital.

The sale of a going concern is also to be registered with the Mercantile Registry Office and is subject to a tax levied upon the total amount of the sale. The tax is 2% of the amount.

j. Stamp tax

The Law on Stamp Tax establishes a number of stamp duties on the issuance of official documents (e.g. certificates, permits, authorization, registrations). Stamp duties may be levied at fixed amounts (ranging from 0.01 TU to 10,000 TU) or at a rate based on the value of the transaction or work in question.

Stamp Tax for the Capital District

Until May 2012, under their own interpretation of the Stamp Tax Law for the Capital District, Mercantile Registries of the District Capital are charging 10% of the amount of subscribed or increased capital of companies and 20% for the sale of a going concern. An amendment on this Law enacted on May 2, 2012 reduced the applicable stamp tax for subscribed or increased capital of companies to 2%.

k. Other contributions

Science, Technology and Innovation Contribution

The Law on Science, Technology and Innovation (LOCTI, by its Spanish acronym) dated December 16th, 2010 establishes a mandatory contribution to be paid by companies, that obtained in the previously fiscal year, over one hundred thousand tax units (TU 100,000) in gross income.

The kind of companies that are required to do this contribution are: Stock Companies, Limited Liability Companies, Partnerships, Communities, irregular Associations, Associations, Foundations, Permanent Establishments or Fixed Bases located inside or outside the national territory with current activities in Venezuela.

Contributions established in the LOCTI are as follows:

- Contributions to be made from companies related to bingos and casinos activities, alcoholic drinks or tobacco: The companies engaged in activities related to bingos and casinos, alcoholic drinks or tobacco must contribute annually the equivalent of two percent (2%) of the gross income.
- Contributions to be made by private companies engaged in hydrocarbon or mining activities: the companies that are related with hydrocarbon activities, including gaseous hydrocarbons, or mining activities, must contribute with an equivalent amount of one percent (1%) of the gross income.
- Contributions to be made by companies engaged in other economic activities: these companies must contribute annually with the equivalent of zero point five percent (0.5%) of gross income.
- The company that performs activities with two different percentages will apply the highest one.

The National Fund for Science, Technology and Innovation (FONACIT) is the entity responsible for the administration, collection, control, verification, as well as qualitative and quantitative determination of the contributions.

Although the contribution to FONACIT is mandatory, companies can retrieve these resources providing in the third quarter of each year, an annual investment in science, technology and innovation containing the projects planned for the next year, in line with priority areas and guidelines established by the national authority.

VIII. Corporate taxation

At present, the National Government has informally established the following areas as a priority, in projects the annual plan should focus on, namely:

- Housing and habitat.
- Dynamics, Trends and Challenges for Urban Development.
- Impact of Climate Change.
- Energy Efficiency.

Anti-drugs contribution

The Master Law on Drugs published on September 15th, 2010 stipulates that any company employing fifty (50) or more employees must make an annual contribution from their operating profit equivalent to one percent (1%). On the other hand, corporations with the aforementioned specifications but dedicated to manufacture or import of alcoholic beverages, tobacco or their mixtures are required to make a contribution equivalent of two percent (2%) of their operating profit. Under the definitions established by this Law, operating profit can be understood as the result from subtracting the operating expenses from the income profit in accordance with accounting principles generally accepted in Venezuela.

This contribution will be collected by the National Anti-Drug Fund (FONA), within sixty (60) continuous days counted as of the fiscal year-end.

Note that this contribution can be recovered if the company performs:

- prevention programs and projects intended for the company employees and their family environment
- prevention programs for children and adolescents, or
- programs to fight drug dealing.

Organic Law on Sports, Physical Activity and Physical Education

The Master Law on Sports, Physical Activity, and Physical Education (Sports Law) was published on August 23, 2011. The purpose of the Law is to establish the public service nature of physical education and the promotion, organization, and administration of sports and physical activity, as well as their organization as an economic activity with social aims.

The provisions of the Sports Law are of public nature and are applicable to the public national, state, and municipal administration and organizations, as well as to individuals and legal entities that conduct any activity related to the practice, promotion, organization, sponsorship, administration, or any economic activity associated with sports or physical activities and education.

The Sports Law creates the National Fund for the Development of Sports, Physical Activity, and Physical Education, which will be constituted by the contributions made by companies or other public or private organizations that perform economic activities for profit in the country; by donations, gifts, or any other special contribution made by the Republic, the states, the municipalities, or any other public or private entity; and by the revenue produced by such funds.

The contribution will be 1% of the annual net or accounting profit and will be payable by all companies or other public or private organizations that perform economic activities within the country and obtain an annual net or accounting profit of more than 20,000 tax units (TU). Up to 50% of the contribution can be for the implementation of the taxpayer's own projects, provided the respective project follows the guidelines to be issued by the National Sports Institute, which will be updated every two years.

VIII. Corporate taxation

1. Payroll taxes

Payroll taxes applicable to resident companies in Venezuela can be summarized as follows:

Contributions	Basis	Contribution basis (cap)	Employer contributions (%)	Employee contributions (%)	Notes
Mandatory social security regime contribution	Wages (normal or regular wages)	Up to five minimum salaries for urban workers	9/10/11	4	(1, 2, 5)
Employment benefit regime contribution	Wages (normal or regular wages)	Up to ten minimum salaries for urban workers	2	0.5	(1)
Housing regime contribution	Total monthly (or integral) salary	No cap (5, 6)	2	1	(5,6)
Employee training contribution (INCES)	Total salaries paid by the employer for purposes of the employer's contribution.	No cap	2	0.5 (4)	(3, 4)
Workplace prevention, conditions, and environment contribution (LOPCYMAT)	Total salaries paid to employees	No cap is established	From 0.75 to 10	N/A	(7),(8)

Notes (related to payroll taxes, prior page)

- As of May 1, 2011, the minimum monthly metropolitan salary was increased to VEF 1, 407.47. As of September 1, 2011, it was increased to VEF 1,548.21. As of May 1, 2012, the aforesaid salary was increased to VEF 1,780.45 and it will be increased to VEF 2,047.52 as of September 1, 2012.
- According to the current system, the employer's contribution to social security will depend on the company's risk qualification (minimum risk, middle risk, or maximum risk).
- Regarding the contribution to the National Employee training Program (Instituto Nacional de Capacitación y Educación Socialista - INCES), the employer must contribute 2% of the total wages and salaries paid to employees.
- Employers are also required to withhold 0.5% of the annual profit-sharing bonus paid to employees.
- According to the Master Law on Social Security System (LOSSS), the general rule for contribution basis for the new systems may not exceed ten minimum salaries. The transition rules establish a contribution basis of five metropolitan minimum salaries for urban workers for social security purposes. No cap is expressly established in the transition rules for the housing system and work, security, and health regime.
- The basis for the calculation of the housing contributions is the 'Integral Salary'.. The Integral Salary is a concept established in the Master Labor Law, and it comprises the following payments: commissions, gratifications, profit sharing bonuses, vacation bonus as well as surcharges for holidays, overtime, night shifts, among others, all of which are made to the employee and correspond to the services rendered by the individual.

VIII. Corporate taxation

Notes (related to payroll taxes, prior page)

7. Contributions to be made to this regime are exclusively for the employer and vary depending on the risk associated with the company. A company's risk is to be determined by the Instituto Nacional de Prevención, Salud y Seguridad Laborales (INPSASEL). To date, INPSASEL has not been created and employers will continue making their contributions to the Venezuela Social Security Institute.
8. The Regulations of the Master Law on labor Prevention, Conditions and Environment (LOPCYMAT) do not establish a cap for the contribution. However, as previously mentioned, the LOSSSS establishes a maximum of 10 minimum urban salaries. Hence, there are several contrary interpretations as to whether a cap should be applied in this case.

Social Security Conventions

Venezuela has entered into bilateral Social Security Conventions with the following countries:

Chile
Ecuador
Greece
Italy
Portugal
Spain

Also, Venezuela signed a Spanish American Multilateral Social Security Convention which entered into force on May 1, 2011. Signing countries are Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, Paraguay, Peru, Portugal, Spain, Uruguay and Venezuela.



IX. Individual taxation

Income tax

Resident individuals are subject to tax using graduated rates. The annual income tax, before credits, is calculated using the following tax rate table (Tariff No. 1).

Range of taxable income (in TU)		[c]Tax rate	Deduction
[r]Over	[r]Not over		
		[c]%	TU
0	1,000	[c]6	0
1,000	1,500	[c]9	30
1,500	2,000	[c]12	75
2,000	2,500	[c]16	155
2,500	3,000	[c]20	255
3,000	4,000	[c]24	375
4,000	6,000	[c]29	575
6,000			

Income for non-resident individuals arising from non-business professional activities is subject to tax of 34% on 90% of the gross payments. Salary and other income received by non-residents for services performed in Venezuela are subject to a flat 34% tax, withheld at source.

Changes to the Income Tax Law effective as of January 1, 2001 have broadened the territoriality regime, establishing a system based on taxation of worldwide income, as follows:

1. Resident individuals are subject to tax on their total worldwide income.
2. Foreign resident individuals with a fixed base in Venezuela must pay taxes on their income of national or foreign source attributable to said base.
3. Non-resident individuals will pay taxes on their income whenever the cause or origin of such income lies within Venezuela.

Resident individuals, as well as individuals domiciled abroad with a fixed base in Venezuela, may credit the income tax paid abroad for income of extraterritorial source. The amount credited cannot exceed the income tax due on the total foreign-source income.

Foreign-tax losses cannot be offset with territorial source income in order to determine the tax base. Individuals are considered to be residents in Venezuela for tax purposes 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. Thus, an individual who spends 184 days in Venezuela will be deemed a resident for tax purposes.

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.

Venezuelan citizens are presumed domiciled in Venezuela unless they can prove otherwise.

IX. Individual taxation

i. Employee gross income

Resident and non-resident individuals are taxed on salaries and wages and on any other remuneration for personal services such as meal allowances, pensions, profit sharing, and other similar remunerations, regardless of the place of payment or currency used. Employees are not taxed on pensions and termination benefits as set forth in the Labor Law or collective contracts (employer/union) and interest thereon, or income from trusts established to administer employer contributions to the related funds.

Foreign-source income will be taxable for tax-resident individuals unless an exemption or tax treaty applies.

ii. Capital gains and investment income

Capital gains are taxable as ordinary income. Individuals are taxed on any Venezuelan source income, including income derived from industrial and commercial activities, earnings derived from the sale of personal property or services, and royalties and interest.

Income earned by individuals investing in the local stock exchange (sale of shares) are subject to a flat tax of 1% (via withholding) on the gross income. Profits and losses related to the same activity cannot be taxable or deductible against ordinary taxable income.

Dividend tax is levied at a flat rate of 34% on the positive difference between book income and fiscal income generated after 2001. To determine this difference, the last-in, first-out (LIFO) method applies. The 34% (domestic) rate can be mitigated under tax treaties to 10%, 5% or even 0%. The withholdings are to be made at the moment a dividend is declared or credited (to an account of the recipient).

Dividends obtained from companies incorporated or domiciled abroad or incorporated abroad and domiciled in Venezuela are excluded from the dividend tax system. However, these dividends will be taxed at 34% flat income tax rate. Foreign tax credits on dividends can be offset with the proportional tax.

Income received in the form of interest, royalties or proceeds from the sale of real estate is taxable when paid. Interest earned from Venezuelan saving deposits or saving funds is tax exempt.

Deductions

i. Business deductions

Resident individuals who are not employees can deduct expenses allowed by law, using the same guidelines applicable for corporations. Taxable income does not include properly documented travel expense reimbursements and individually supported representation expenses. Business deductions from salary income are not allowed.

ii. Non-business expenses

In determining taxable income, Venezuela residents can deduct the following expenses.

1. Educational payments made in Venezuela for the taxpayer and for dependent children under 26 years of age. The age limit does not apply in cases of special education.
2. Life, surgery, hospitalization, and maternity insurance premium payments to entities domiciled in Venezuela
3. Medical, dental and hospitalization payments to entities domiciled in Venezuela.
4. Rent or interest payments on loans granted for the acquisition or enlargement of the taxpayer's home. The authorized deduction cannot exceed 1,000 TU for the fiscal year in the case of interest on loans, or 800 TU for the fiscal year in the case of payments associated with the leasing of main or permanent housing.

IX. Individual taxation

iii. Special deductions

Resident taxpayers have the option to claim a special (single) deduction of 774 TU. No documentation is necessary. Taxpayers who choose the special deduction cannot claim the itemized deductions indicated above.

Personal allowances

Residents are entitled to a personal tax credit of 10 TU for the taxpayer, spouse, and any dependent.

Other tax credits and incentives

Resident Individuals may take credit for income tax paid abroad in regard to extraterritorial source income. The foreign tax credit cannot exceed the domestic tax on the total foreign-source income. No carry forward rules have been established for the amounts of credit in excess of the aforesaid limit.

Tax administration

Returns

Spouses must, in principle, file joint returns even if they have personal income arising from their own activities. They will be considered as a single taxpayer. Husbands and wives can file separate tax returns only when the following conditions apply.

- There was a mutual agreement for separation of property.
- They both are reporting salaries, wages and professional fees and choose to declare separately.

Individual taxpayers earning wages and salaries must file their tax returns on a calendar-year basis where as taxpayers engaged in commercial, industry activities or services are allowed to choose a period with duration other than that of the calendar year (twelve month period). Exceptions are permitted (for instance, when an individual ceases all business).

Payment of tax

Income tax is withheld from salaries, professional fees, royalties paid to non-residents, and certain other payments received by non-residents.

Individuals other than employees must file estimated tax returns only if, during the immediately preceding fiscal year, they received income exceeding 1,500 TU from: a) commercial or credit activities, b) independent professional activities, c) leasing, or subleasing activities involving movable or real property and d) participation in net profits of partnerships or communities not subject to tax payment as provided for in domestic regulations.

The estimated tax is based on 75% of the tax that would result from applying full rates to the estimated income declared (80%). The prepaid tax resulting from the estimated returns must be paid in either a single installment or in six equal installments.

Final tax returns must be filed within three months following the end of the tax year. Tax resulting from the filing of the final tax returns must be paid in a single installment or in up to three equal installments.

X. Labor regulations

Labor relations in Venezuela are currently governed by Decree N° 8,938 with Status, Value and Force of Master Law on Employment, Male and Female Workers (MLL), published on May 7th, 2012 and the Regulations of the abrogated Master Labor Law, until new rules on the MLL are published.

Under the new Law and respective decrees, Venezuelan workers and employees are granted numerous benefits and protections, including maximum work weeks, minimum wage requirement, the right to unionize, and numerous fringe benefits. The provisions of this Law are public in nature, that is, they cannot be waived and their effect may not be lessened by means of individual agreements. Moreover, the scope of these provisions is territorial, i.e. they are applicable to both Venezuelans and foreigners with regard to the work executed in the country.

The Law establishes the conditions and minimum benefits to be conferred to employees. No labor agreement may offer benefits which lie below the minimum conditions set forth in the Law. Nonetheless, collective or individual labor contracts may establish more favorable conditions for employees.

Employment of expatriates

Rights provided for in the MLL apply to all employees working in Venezuela, regardless of their nationality. Accordingly, when seconding employees to Venezuelan affiliates, multinationals must be aware that Venezuelan courts may confer all benefits granted under Venezuela's labor laws to foreign employees working in Venezuela regardless of an explicit waiver by the employee of these rights and benefits.

As a general rule, in the case of employers who hire ten (10) or more employees, the MLL requires that at least ninety percent (90%) of such employees be Venezuelan nationals. Moreover, the remuneration payable to foreign employees may not exceed more than twenty percent (20%) of the employer's total payroll costs. Temporary exceptions may be made to the above rules by the relevant Ministry provided that the following conditions are met:

- The relevant activity requires special technical knowledge and there are no Venezuelan personnel available to perform such activity.
- The employer is either a medium or small size enterprise.

Moreover, employers, when hiring foreigners, are required to give preference to foreigners married to a Venezuelan or with children born in Venezuela, or to foreigners domiciled in Venezuela or with the longest period of residence.

Work schedule

The MLL establishes the principle that workers who contribute to an increase in a company's productivity are entitled to higher wages, and that an increase in the cost of living may give rise to negotiations among unions, the government, and management for compensatory salary hikes.

The ordinary work period may not exceed five (5) days a week; consequently, workers are entitled to the enjoyment of two continuous paid days of rest during the week, except in the case of continuous work schedules. The duration of the work period in daytime hours is forty (40) hours per week and the mixed day is 37½ hours per week. The weekly limit of night time is 35 hours.

The New MLL provides that any extension of the night hours in daytime hours shall be regarded as night-time hours.

X. Labor regulations

Overtime Working Hours

Hours worked in excess must be compensated with a minimum overtime premium of fifty percent (50%) over the employee's regular salary. The maximum number of overtime hours allowed per month is ten (10) hours and per year is one hundred (100) hours. Holidays and days of rest must also be remunerated. Also, employees working on holidays for four (4) hours or more must be paid the salary for the whole day as well as granted compensatory free days. If the work is for less than four (4) hours, the worker must be paid half day of salary and grant half day of compensatory free day. Salaries for night shifts must include a premium of thirty percent (30%) over the salary established for day shifts

Vacations

Employees are entitled to a minimum of fifteen (15) business days- vacation after one (1) year of uninterrupted work. Employees are also entitled to one (1) additional day of vacation a year, up to a maximum of fifteen (15) additional days for each year of service with their employer.

Vacations must be remunerated and the remuneration must be paid at the beginning of the vacation. While on vacation, employees also are entitled to a vacation bonus equivalent to a minimum of fifteen (15) days-remuneration. For every year of full employment, this bonus is increased by one (1) day's pay up to a maximum of thirty (30) days.

Mandatory Profit-Sharing

Employers (including permanent establishments of foreign corporations) are required to share with all of their employees at least fifteen percent (15%) of their annual net profits. For these purposes, net profits are equal to the employer's taxable income increased by any tax-exempt income of the taxpayer, as determined in the employer's corporate income tax return. Moreover, an employer's net profits comprise all the combined profits of the employer's enterprise as a whole, even if the enterprise is divided into separate and distinct legal entities.

Annual profit-sharing distributions per employee, however, may not be less than the equivalent of thirty (30) days of salary nor more than four (4) months of salary. For purposes of these limitations on benefits, the term wages is broadly defined to include not only ordinary wages, but any compensation which the worker receives, including among others: premiums, commissions, allowances, bonuses, and overtime paid.

X. Labor regulations

Seniority payment

Guarantee and Calculation of Seniority Payment.

Seniority payment will be protected, calculated and paid in the following way:

- (a) The employer shall deposit, as guarantee of seniority payment, the equivalent of 15 days' salary quarterly, calculated based on the last accrued salary. The right to this deposit is acquired from the moment the quarter starts.
- (b) In addition and after the first year of service, the employer will deposit to each worker two days of salary, for each year, cumulative up to 30 days of salary.
- (c) When the employment relationship ends for any reason, seniority payment shall be calculated based on 30 days for each year of service or fraction greater than six months, calculated at the rate of the last integral salary.
- (d) The worker will receive as social benefits the amount that is the greater between the total of the guarantee deposited according to the stipulations in letters (a) and (b) above, and the calculation carried out at the end of employment relationship according to letter (c).
- (e) If the employment relationship terminates prior to the first three months, the payment that corresponds to the worker for seniority payment will be five days of salary per each month or fraction worked.
- (f) The seniority payment will be made within five days of the termination of the employment relationship, and failure to fulfill such payment will generate interest on arrears at the active rate determined by the BCV, using as a reference the country's six main banks.

The employee must notify the employer in writing whether he wants the employer's contribution to be deposited by the employer to either an individual trust established in a financial institution, to the Seniority Compensation Fund, or to be credited in the books of the employer. The seniority contributions so deposited or credited are interest-bearing.

The amount of interest that accrues depends on where the contribution is deposited. If the contribution is deposited in the trust or in the Seniority Compensation Fund, the interest rate is the one provided by the financial institution in charge of that trust or Fund. If the contribution is entered in the employer's books, the interest rate is the average rate between the lending and deposit rates, as provided by the Venezuelan Central Bank, taking as reference the six (6) largest commercial and universal banks of Venezuela. If, however, the employee had requested the contribution to be deposited in a trust or Fund and the employer failed to make those deposits, then the employer is required to pay interest thereon at a rate equal to the lending rate, as determined by the Venezuelan Central Bank, taking as reference the rates established by the six (6) largest commercial banks of the country. The interest on seniority contributions is payable to the employee on an annual basis unless the employee elects, in writing, to capitalize it. Interests paid to employees are exempt of income tax.

The employer is required to notify to the employee on a quarterly basis the contributions recorded in its books.

XI. Immigration

Foreign nationals entering Venezuela for business matters require a transient visa issued by a Venezuelan consulate office located overseas. To work on a more permanent basis, foreign nationals require a resident visa which can be easily obtained from the Venezuelan immigration authorities (SAIME).

Obtaining a visa can take several months, so applications should be submitted well in advance. Visa applicants must have a valid passport that should not expire for at least six (6) months from the application date. The Venezuelan Government issues various types of visa, the most important are: Transient Work Permit Visa (TR-L), the Transient Family Visas (TR-F) and Resident Visas.

It is important to define the nature of the assignment as a prior step to their entry into Venezuela. This will contribute to the adoption of the appropriate procedures to minimize inconveniences after the expatriate is already in-country.



XII. Other regulations affecting business activities in Venezuela

Decree with Status of Law on Fair Costs and Prices

The Decree with Legal Status, Worth and Power of Law on Fair Costs and Prices was published on July 18, 2011 and is aimed at establishing regulations, as well as administration and control mechanisms, to maintain a balance in the price of goods and services. This Law-Decree is applicable to those individuals and public or private companies, whether national or foreign, who produce, import, or trade goods or render services within the country. Banks and financial institutions are exempt from the application of the Law-Decree.

Those subject to the application of this Law-Decree have the obligation to register and keep their data updated with the National Registry of Prices and Goods and Services, which is under the jurisdiction of the National Superintendence of Costs and Prices. Said Superintendence is entitled to establish the categorization of goods and services, or the parties subject to this law, based on those technical criteria deemed appropriate.

In order to determine the fair price of goods and services, the National Superintendence of Costs and Prices may take as a base the information provided by those subject thereto, which is to be consistent with their structure of direct and indirect costs, general expenses, administration distribution, and sales, when applicable, as well as the expected profit based on the expectation and assumed risks. The guidelines to set forth referential parameters to determine fair prices are to be previously notified to those subject to this law, on a personal basis, in the case of particular guidelines, or by means of a publication in the Official Gazette, in the case of guidelines applicable to sectors or categories of persons.

• Commitment of Social Responsibility

The Law on Public Contracting and its rules apply, in general terms, to the acquisition of goods and services and execution of projects by State owned entities and regulates, amongst other matters, the process for bidding, registration of contractors and the so called “Commitment of Social Responsibility” (Compromiso de Responsabilidad Social) by virtue of which suppliers of goods and services establish the channeling of resources to the execution of projects for social purposes.

In this regard, the regulation provides that, for the supply of goods and services or execution of works, the contribution of suppliers to Social Responsibility is established in a value ranging from 1% to 5% of the amount of the agreement. Such contribution is to be borne by suppliers that are granted the execution or sale.

The mechanisms to contribute to the Commitment of Social Responsibility: Article 41 of the Regulations of the Law of Public Contracting provide, amongst others, for the execution of projects for social development, creation of jobs, contributions in kind to social programs and to non-profit organizations as well as any other projects that may satisfy any need of the social environment pertaining to the contracting entity (i.e. the State owned entity).

The Commitment to Social Responsibility does not apply in case of contracts with foreign entities without domicile or subsidiaries in Venezuela for the acquisition of goods and services abroad, when the national offer does not cover the demand of the contracting entity. On the other hand, pursuant to Article 49, when goods or services are acquired from foreign entities with subsidiaries in Venezuela and where the supply of goods or services or the execution of the work is to take place in Venezuela, provisions concerning the Commitment of Social Responsibility must apply.

XIII. Accounting and audit requirements

Accounting principles and auditing standards

Local audit and financial statement preparation requirements depend heavily on the characteristics of the entity and the specific regulations to which it is subject. The Venezuelan Code of Commerce requires all entities to keep accounting records. The main requirements depending on the type of entity are:

1) Statutory financial statements of non-regulated entities

Entities domiciled in Venezuela usually prepare their financial statements in accordance with accounting principles generally accepted in Venezuela, which are published by the Venezuelan Federation of Public Accountants (FCCPV). Accounting principles generally accepted in Venezuela (VEN NIF) are based on International Financial Reporting Standards (IFRS) and VEN NIF Adoption Bulletins (BA VEN NIF) issued by the FCCPV. The FCCPV has categorized VEN NIF into two groups:

- VEN NIF for large entities (LEs), which comprise BA VEN NIF applied in conjunction with full IFRS, and
- VEN NIF for small and medium entities (SMEs), which comprise BA VEN NIF applied in conjunction with IFRS for SMEs

Entities have the option to apply either VEN NIF for LEs or VEN NIF for SMEs.

VEN NIF are similar to IFRS (either for LEs or SMEs), with the exception of certain criteria related to the adjustment of financial statements for the effects of inflation, among others.

Applicable auditing standards are also set by the FCCPV through pronouncements called Statements of Auditing Standards (DNA for its Spanish acronym). DNA are similar to International Standards on Auditing (ISA). DNA establish that in the absence of guidance on a particular issue ISA must be applied. Venezuelan business law requires entities to appoint a statutory auditor to report on the entity's financial statements.

2) Publicly traded entities

The local regulator for listed entities is the Venezuelan Securities Superintendency (SNV), which is responsible for establishing the accounting principles for the preparation of financial statements and the applicable auditing standards. Entities regulated by the SNV are currently required to prepare their financial statements under IFRS. The auditors appointed for these entities must conduct the audit and issue the audit report in accordance with ISA.

3) Banks

Banks must prepare financial statements following the specific guidance of the National Superintendency of Banks (SUDEBAN). These standards differ from IFRS and VEN NIF in certain respects, including the non-recognition of inflation in the financial statements. Under SUDEBAN rules, entities are required to issue audited financial statements semiannually (on June 30 and December 31 of each year). The auditor must conduct the audit and issue the audit report in accordance with the DNA published by the FCCPV.

4) Insurance entities

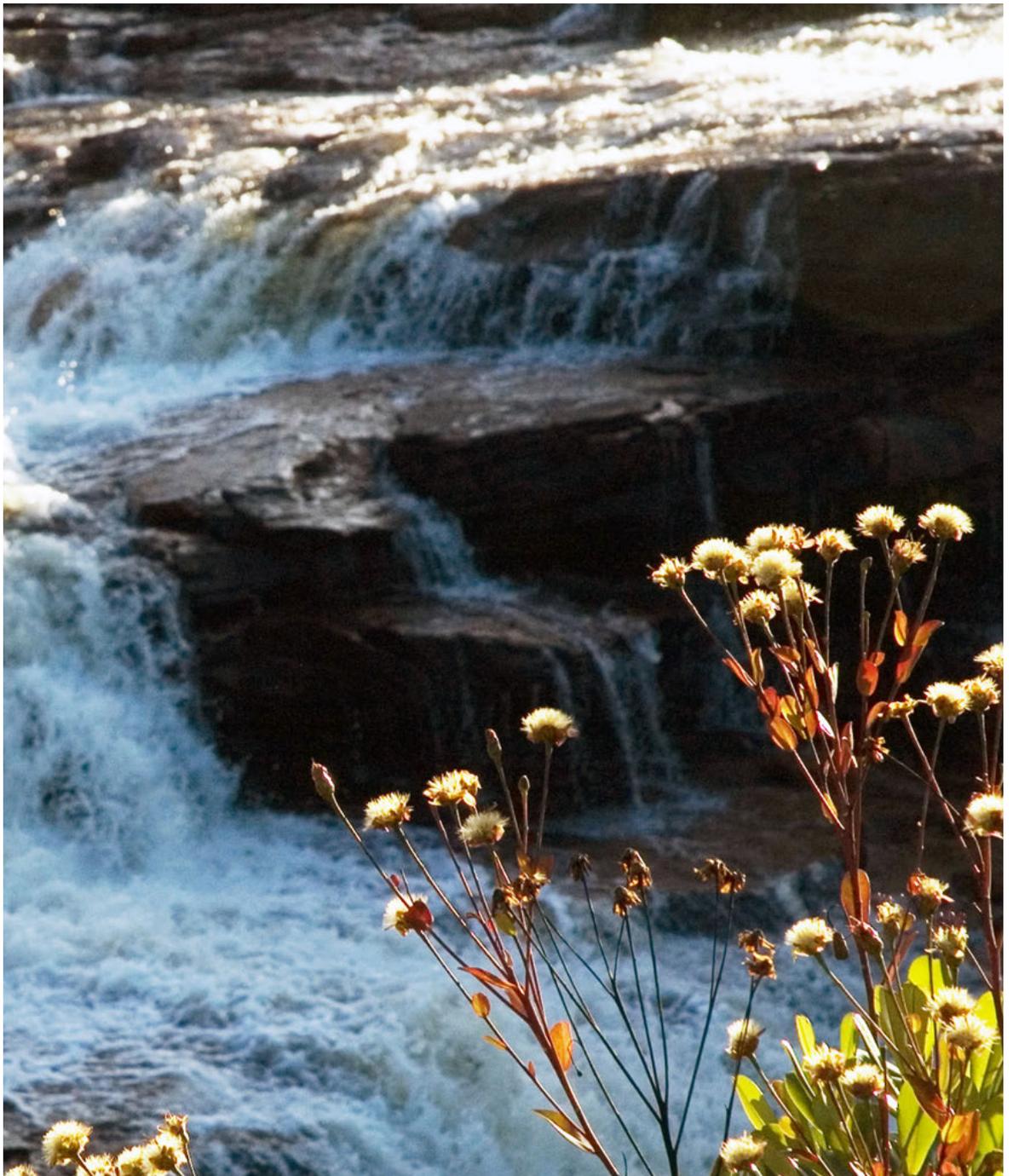
Like banks, insurance entities must prepare financial statements following the specific guidance of the National Insurance Superintendency (SUDESEG). These standards differ from IFRS and VEN NIF in certain respects, including the non-recognition of inflation in the financial statements. Under SUDESEG rules, entities are required to issue annual audited financial statements. The auditor must conduct the audit and issue the audit report in accordance with the DNA published by the FCCPV.

XIII. Accounting and audit requirements

5) Other regulators

Depending on the business environment in which the entity operates, it may be required to prepare audited financial statements for certain government regulatory agencies, among which are: the Commission for the Administration of Foreign Currency (CADIVI), in charge of approving requests to purchase foreign currency at the official exchange rate; the National Contractors Registry (RNC), which lists the entities authorized to do business with government agencies; and the National Telecommunications Commission (CONATEL), which is in charge, among other things, of granting telecommunications licenses.

These regulators normally require the preparation of audited financial statements in conformity with VEN NIF. The audit must be conducted in accordance with ISA. However, under certain circumstances, these regulatory agencies may require additional entity-specific information.



Contacts

Caracas

Avenida Principal de Chuao
Edificio PwC
Apartado Postal 1789
Caracas 1010-A
Teléfonos: 58 212 700-6666
Fax: 58 212 991-5210

Barquisimeto

Urbanización El Parque
Calle Los Comuneros
Centro Ejecutivo Los Leones
Piso 5, PH 5-2
Apartado Postal 3001
Teléfonos: 58 251 255-4983
58 251 255-0061
58 251 255-0404
Fax: 58 251 254-6284

Maracaibo

Avenida 9B entre Boulevard
5 de Julio y Avenida Dr. Portillo
Edif. Banco Industrial, Piso 6
Apartado Postal 490
Teléfonos: 58 261 797-9805
58 261 797-9806
58 261 798-3869
Fax: 58 261 798-8194

Maracay

Avenida Las Delicias,
Urbanización El Bosque
Edificio Banvenez,
Centro Financiero, Piso 2
Apartado Postal 4700
Teléfonos: 58 243 232-5411
58 243 232-2745
Fax: 58 243 232-2742

Puerto La Cruz

Av. Intercomunal Jorge Rodríguez
Sector Las Garzas
Centro Comercial MT (CCMT)
Piso1, local 39
Lechería
Teléfonos: 58 281 267-0845
58 281 418-7935 al 38
Fax: 58 281 286-9616

Puerto Ordaz

Avenida Guayana
Sector Alta Vista
Torre Colón
Piso 6, oficinas 2, 3 y 4
Teléfonos: 58 286 962-6451
58 286 962-4995
Fax: 58 286 962-6875

Valencia

Avenida Bolívar Norte
Centro Comercial y Profesional
El Camoruco, Piso 21
Apartado Postal 541
Teléfonos: 58 241 823-2321
58 241 824-1383
Fax: 58 241 824-4905

www.pwc.com/ve

Twitter

(http://twitter.com/pwc_venezuela)



Facebook

(<http://facebook.com/pwcVenezuela>)



LinkedIn

(www.linkedin.com/companies/pwc-venezuela)



PwC Espiñeira, Pacheco y Asociados helps organizations and individuals create the value they're looking for. We're a member of the PwC network of firms with more than 180,000 people in 158 countries. We're committed to delivering for both territory and global quality in assurance, tax and advisory services. Tell us what matters to you and find out more by visiting us at www.pwc.com/ve

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers does not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2012. Espiñeira, Pacheco y Asociados (PricewaterhouseCoopers). Todos los derechos reservados. PwC se refiere a la firma venezolana Espiñeira, Pacheco y Asociados (PricewaterhouseCoopers) y en ocasiones podría referirse a la red de firmas miembro de PwC. Cada firma miembro es una entidad legal separada. Para más detalles visite www.pwc.com/ve • R.I.F.: J-00029977-3