

Tax Incentives for Renewable Energy in Latin America

November 2020



Foreword

We are proud to present to our clients, colleagues and friends, this compilation about tax incentives in the renewable energy space in LATAM.

Climate change and most recently COVID-19 have driven and continue to drive acceleration in terms of energy transition, and the region is no exception. Historically, energy in LATAM has been hydroelectric-sourced, given the vast natural resources and the geographic location in the Ecuadorian hemisphere. However climate change has proven how vulnerable the region is to droughts and floods, as well as the complexity of predicting rain patterns. Recent droughts in the Brazilian rainforest and the Chilean mountain chains are just examples. Also, Panama is now considering plans to react to how reduced rain may impact Gatun Lake, which is paramount to mobility across the channel.

Over the years, the legislators in the region have thus introduced a number of regulatory reforms to bring renewable sources to the energy agenda. As with major policy changes, taxes are used

and will continue to be used to drive growth and investment to ensure the region is better prepared and positioned to manage the energy transition. This explains why currently most LATAM countries offer a wide variety of direct and indirect tax incentives to investors in renewable energy projects, where potential for growth and investments is expected to reach several billions of dollars (USD) in the coming years. Many countries have also taken steps to include clean energy sources as part of the local energy matrices, and some others have even auctioned their renewable energy capacity as part of mid and long-term energy availability strategy. While the region continues to be a significant producer of fossil fuels, the third energy transition is already happening and will also be followed by emerging green taxes, where the EU is leading the way.

I am hopeful that this compilation will support all of you in understanding the current landscape of tax incentives for renewable energy projects. Readers will find useful information

about incentives by jurisdiction, as well as a consolidated summary for your convenience. Our PwC energy professionals for each jurisdiction are also identified in the relevant sections.

At PwC we will be pleased to further discuss how our energy transition tax and regulatory professionals across LATAM and the globe may be of assistance to help navigate through these and other relevant matters. Last, but not least, I would like to thank my partners and teams in LATAM who greatly contributed to making this paper a reality, and also our global energy team for the support and leadership as we collaborated to bring this paper to life. Stay safe!

Regards,



Carlos Miguel Chaparro

LATAM Energy Tax Leader

Email: carlos.chaparro@pwc.com

Foreword

The Energy industry is one of the most affected by the COVID-19 pandemic, indicated by a 3.8% global energy demand decline in the first quarter of 2020. However, renewables were according to the IEA the only source of energy that experienced a growth in demand. How long it is going to take for countries, economies and companies to recover, is yet to be seen. One thing the pandemic has taught the Energy industry is that some challenging decisions that were likely to be tackled as medium to long-term projects, cannot be deferred any longer.

Increasing pressure by the market, society, investors and governments are driving incumbent energy companies to reinvent themselves to survive in a low-carbon future sustainably, while riding out the current pandemic. At the same time, new competitors are surfacing in the energy market, traditionally dominated by big players while the world is heading towards increased electrification.

Since the pandemic took over the world, we have worked closely with companies in the energy, utilities and resources sector on keeping the lights on and looking ahead. Conserving cash, increasing liquidity, timing of tax payments, tax refunds and access to tax incentives have been key contributors to continue operating in an unstable environment.

As governments focus on feasible stabilisation and growth stimulating measures, we expect increased scrutiny from tax authorities, as has already been the case since the introduction of the BEPS initiative by the OECD. Companies, particularly in the energy sector, with significant tax contributions need to manage their tax spend effectively and mitigate future impacts in a maze of tax reforms and legislative proposals.

The 2020 deadline for updated nationally determined contribution (NDC) plans as defined in the Paris agreement is rapidly approaching and with that, the targets encouraging the production of low-carbon energy are expected to be more ambitious. Latin America, being one of the regions historically to be a net exporter of fossil fuels will likely have to adapt rapidly in the current environment to be competitive in a carbon-constrained world.

Countries such as Uruguay are amongst the best performing countries globally as ranked by the Energy Transition Index 2020 (11th). The Latin American and Caribbean region is predicted to have a population increase of 100 million people by 2050, while urbanization and poverty decrease is expected to require more and/or better use of energy.

To transition to a lower greenhouse gas emissions world, governments require support from the

industry. For companies to invest in technology, infrastructure and scaling up investments that support low-carbon development, the industry requires backing from governments. This need for mutual support to transition more efficiently and effectively requires instruments that will allow a successful transformation.

At PwC we have helped governments, as well as industry players to understand the requirements from both sides and the effects that either policy or commercial developments can have on the economy, society and environmental sustainability. Among others, with our contributions on studies relating to carbon pricing mechanisms and national carbon levies.

Tax contributions can have significant consequences on envisioned projects and we have notable experience in providing integrated solutions. This includes modelling the financial impact, structuring the financing options, navigating the regulatory/compliance aspects, supporting companies in accessing public funding and making use of available government incentives.

The Energy industry is no stranger to crises and drastic changes. However, navigating the current policy frameworks to enable the transition, at a time of constrained resources and stretched tax teams while remaining compliant and having

a suitable structure in place has added some complexity to the sector.

This publication is a first step in providing comfort in navigating the tax incentives for renewable energy projects in Latin America and hopefully allow some level of certainty to project teams and strategic decision makers with support from our experienced tax professionals.

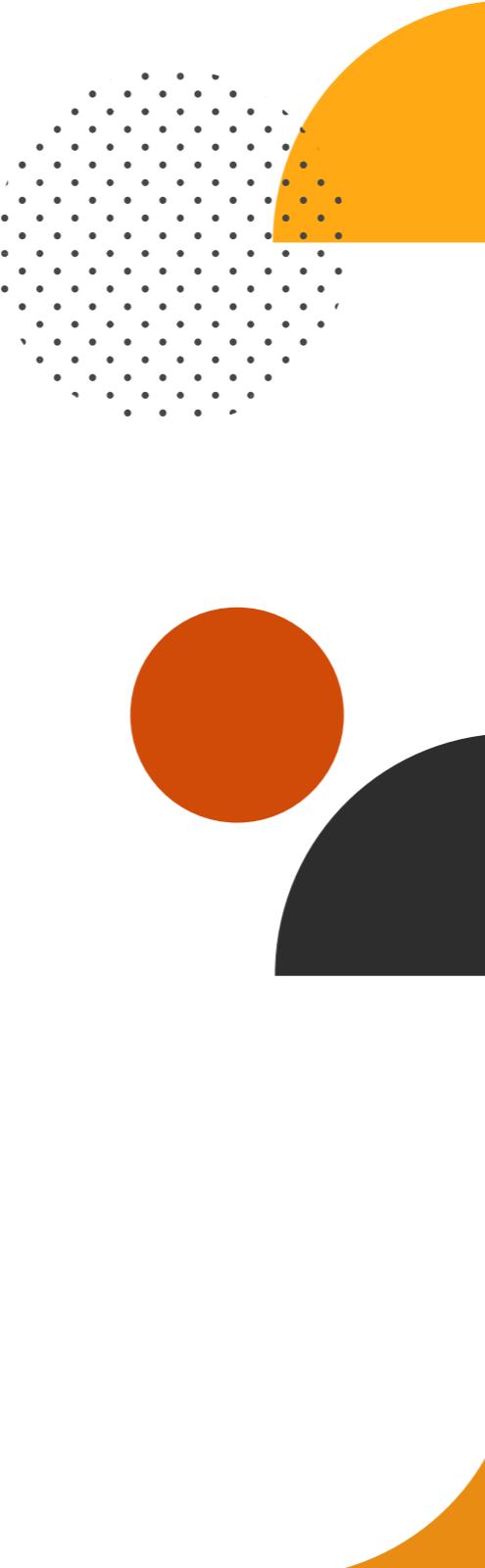


Niels Muller

Tax Partner - Energy, Utilities and Resources (EU)
Email: niels.muller@pwc.com

Contents

- 01 **Argentina** p. 5
- 02 **Brazil** p. 9
- 03 **Chile** p. 16
- 04 **Colombia** p. 20
- 05 **Ecuador** p. 25
- 06 **Peru** p. 30
- 07 **Uruguay** p. 36
- 08 **Summary** p. 40



01

Argentina



Argentina is the second-largest consumer of electricity in South America, after Brazil. It imported 18.4b kilowatt-hours in 2014 through electrical transmission interconnections with Brazil, Chile, Paraguay and Uruguay.

Argentina holds the world's second-largest shale gas reserves (802 trillion cubic feet) and fourth-largest shale oil reserves (27b barrels). The largest shale gas reserve in Argentina is Vaca Muerta, located in the Neuquén Basin.

2013, Argentina was both the largest dry gas producer and the fourth-largest petroleum/other liquids producer in South America. As of January 2015, Argentina had **2.4b barrels** of proven crude oil reserves. In 2014, total oil production was approximately **550k bbl/d**. Argentine refined products do not satisfy all domestic fuel demand. As a result, Argentina imported 87k bbl/d of total oil products, including 43k bbl/d from the United States in 2014.

The development of biofuels takes advantage of synergies with the country's agricultural producers. 2014, Argentina's soybean-based biodiesel production reached 48k bbl/d and production capacity grew to 87k bbl/d.

President Macri's administration, which took office in December 2015, began fostering investments and implementing measures aimed towards utilizing the substantial potential of Argentina's energy industry, including an expansion of the country's renewable energy operations, leveraging the country's great potential in the field. Last measurements show wind power generating capacity above 2000 GW – third largest reserve around the world, more than 50 times the current local installed capacity, and a great solar power capacity especially in

the North Western Region – second largest global reserve, which would satisfy most of the country's electrical demand if it were not for the current lack of a local energy storage system.

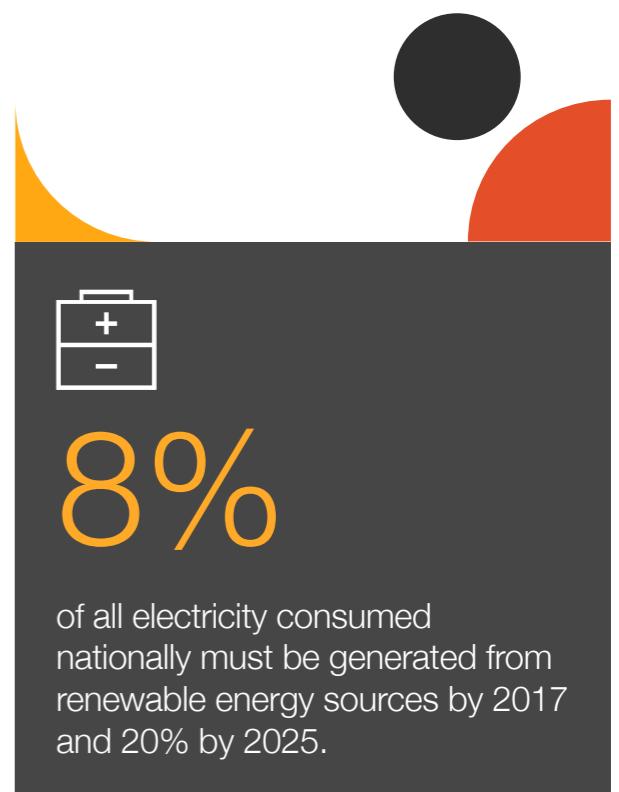
As part of this plan, Argentina has just also adopted a series of laws and regulations **to promote renewable energy sources**. The production of electricity from renewable energy sources has been declared a matter of national interest. It requires that 8% of all electricity consumed nationally must be generated from renewable energy sources by 2017 and 20% by 2025.

Tax incentives were included in the corresponding legislation.

As a matter of fact, through the enactment of Act. 26,190, as amended by Act. 27,191, and Regulatory Decrees 562/2009 and 531/2016, the Argentine government launched and updated promotional measures for the energy sector looking to encourage the use of renewable energy sources for the production of electricity.

According to this regime, certain tax benefits shall be granted upon request by filing the projects before the corresponding Authorities, provided they start being executed before or on December 31st, 2017. The applicable law and regulations set forth that the projects will be deemed to have started execution when expenditures of at least 15% of the whole investment amount have been made.

For the execution of infrastructure work, including capital assets, civil work, electromechanical and assembly works, and other related services that are part of the new generation plant, or are included in the preexistent ones working together to produce energy through renewable sources, the following benefits apply:





Accelerated depreciation: beneficiaries may choose to apply for 30% income tax purposes, either by applying the regular straight-line depreciation method allowed by the income tax law or the special depreciation method consisting of four (4) or five (5) equal, annual and consecutive installments depending on whether the projects were deemed to have started execution (at least 15%) between 2018 to 2021, or between 2022 to 2025, respectively. If they include real estate property, the accelerated depreciation would result from reducing its estimated useful life to 70% (2018-2021) or 80% (2022-2025). The relevant assets must have been held for at least three (3) years.



A 5-year extension for computing tax losses arising from the benefited projects (being barred by statute of limitations after 10 years from generation instead of 5).



Early recovery of VAT (21% general rate or 10.5% for certain activities) paid for the purchase of new assets or infrastructure works, not offset against VAT outputs by means of a refund or a credit against certain other federal taxes. This benefit shall be effective after, at least, one tax period month- as from the date in which the investments were made if projects were deemed to have started execution before Dec 31, 2017. If that threshold is met later on but earlier than Dec 31, 2021, the requirement is two tax periods, and if it is later but before Dec 31, 2025, three fiscal periods are required.



A tax credit certificate to be applied against federal taxes would be granted, equal to 20% of the amount of purchases in domestic components for the project (certain exclusions apply) to the extent it can be proved that at least 60% of the total components are sourced domestically (a lower percentage may be accepted as long as it can be proven that some components cannot be obtained in the domestic market, but should never be lower than 30%).



Potential relief from import duties and other related taxes ("Tasa de Estadística") for the importation of the new assets involved in the project.



Some guarantees have to be offered to take advantage of the above tax benefits.



Also, from a provincial tax perspective, Act. 26,190 invites all Argentine provinces to adhere to the regime, enacting local regulations with tax benefits aimed at promoting and encouraging the production of electric energy through renewable sources. Most of the provinces favorable for developing this type of projects have already adhered to this promotional regime, replicating it by granting temporary exemptions from the provincial Turnover Tax (tax on gross proceeds) and Stamp Duty (tax on formal agreements executed).



Ignacio Rodríguez

Partner

Email: ignacio.e.rodriguez@pwc.com

Phone: (+54) 11 4850 6714

Ignacio is a Partner specialized in international tax and tax structuring matters, with over twenty years of experience supporting local groups and multinational companies with Argentine interests in different industries, such as, Energy, Utilities & Resources and Agribusiness, among others. He currently leads these industries' tax practices in PwC Argentina. Particularly, during the past two years, he has been supporting several acquisitions and inbound investments projects related to financial models for the RenovAr public projects' tender. In this regard, he has been personally assisting multinational and local companies like Acciona WindPower, SoEnergy, InterEnergy Holdings, IMPSA, Aluar, AES, Siemens, Neoen, among others.

Ignacio joined PwC Argentina in 1996. Prior to joining the firm, he was a member of the Argentine Tax Authorities - *Dirección de Auditoría Fiscal, dependiente de la Administración Federal de Ingresos Públicos – Dirección General Impositiva* - from 1994 through 1996.

He was seconded two years (2012 – 2014) to the Latin American Tax Group of PricewaterhouseCoopers in New York, where he was involved in several global projects related to direct and indirect taxation and cross-border transactions.

Ignacio actively participates as a presenter in local and international tax symposiums conducted by the IFA in Argentina (IFA & Asociación Argentina de Estudios Fiscales) and by PwC related to his fields of expertise, including the Latin American Tax Symposiums regularly organized by PwC in Europe and in the US. He also participates as a presenter at seminars organized by the CPA Council of the City of Buenos Aires and by the Chambers of Corporations and Entrepreneurs, among others.

Ignacio's written credits include collaborating on the Doing Business guide issued by the World Bank since 2005, and since 2006 he has contributed to the International Tax Review and World Tax publications edited by Euromoney.

Ignacio graduated from the Argentine Catholic University and is a public accountant.

Argentina

02

Brazil



Brazilian tax incentives available for renewable energy projects

Please find below the main tax incentives available for renewable energies such as wind power, solar power, biomass power and biofuel power. Brazil, these incentives are applicable to the **Corporate Income Tax (IRPJ and CSLL)**, **Social Contribution on Gross Revenue (PIS and Cofins)** and **Value- added Tax on Sales and certain Services (ICMS)**.

A. Brief description of the main taxes subject to incentives

Prior to the description of the tax benefits identified, it is important to describe the main taxes involved, the corresponding taxable events and the applicable rates.

1. Corporate Income Taxes (IRPJ and CSLL)

Corporate Income Tax (IRPJ) and Social Contribution on Net Income (CSLL) may be computed on the basis of annual or quarterly taxable income.

IRPJ(25%) and CSLL (9%) are charged at a combined rate of 34%.

Brazilian taxpayers may calculate IRPJ and CSLL using the Actual Profit method (*Lucro Real*), which is based on the total taxable income (accounting results before taxes), adjusted by certain additions and deductions as determined in the legislation.

Brazilian taxpayers also have the option (subject to some restrictions) to calculate IRPJ and CSLL using the Assumed Profit method (*Lucro Presumido*). Under the Assumed Profits method, income is calculated on a quarterly basis using an amount resulting from the application of various rates to the gross revenue (percentages determined according to the entity's activities) and adjusted as determined by the prevailing legislation.

2. Social Contributions on Gross Revenue (PIS and Cofins)

PIS and Cofins are monthly federal social contributions levied on gross income at a combined rate of 9.25%. As a rule of thumb PIS and Cofins are non-cumulative taxes, thus there is the possibility of recognizing PIS and Cofins credits on the acquisition of certain inputs and services.

PIS and Cofins are also levied on financial revenues - earned by companies subject to the non-cumulative method – at a combined rate of 4.65%.

Certain companies are subject to PIS and Cofins under a non cumulative system, which imposes a lower combined rate of 3.65% but does not enable the taxpayer to recognize any tax credits on acquisitions.

3. Federal Excise Tax (IPI)

The excise tax is a federal non-cumulative tax levied on industrialized and imported products in accordance with the products' tariff code established by the Federal excise tax is due on a monthly basis.

The rates are defined in the products' tariff code (normally around 5% to 15%) and are based on the essentiality of each product, which generally

means that essential products will attract lower tax rates.

An IPI taxable event occurs in local market transactions involving industrialized goods. Such event is the outflow of products from entities considered manufacturers for legal purposes.

4. Import Tax (II)

The import duty (II) is a federal tax levied on permanent import of goods into Brazil and is also referred to as an import tax or customs duty. The rates vary according to the products' tariff code based on the Mercosur Harmonized System (NCM/SH), usually ranging from 10% to 20%. As a general rule, the taxable basis includes of the cost, insurance, and freight (CIF) value of the product (i.e. cost, international insurance, and international freight), calculated pursuant to the World Trade Organization's (WTO's) Customs Valuation Agreement.

Import duty is not recoverable by the importer (i.e. it is considered a cost).

5. Value-added Tax on Sales and certain Services (ICMS)

ICMS is a non-cumulative state tax on the circulation of merchandise, electric power, rendering of interstate and intermunicipal

transportation services, and communications, even when the transaction and the rendering of services start in another country.

The calculation process involves a system where the taxpayer should check the amount of debits and credits related to the state ICMS. In case the taxpayer has more debits than credits, the taxpayer will be required to pay the difference. The internal ICMS rates may vary in each Brazilian State. Usually, the ICMS rates range from 17% to 20% in most cases, but higher and lower rates may be applied as well.

Special rates apply to interstate sales.

B. Summary of available tax incentives at Federal and State levels



Tax



Location



Energy Type



Tax incentive



IRPJ



North and Northeast regions



Type of energy considered priority for the development of the region



75% reduction of the corporate income tax and non-refundable surcharges due on operating profit (lucro de exploração), for a maximum period of ten years, for implementation, expansion, diversification and improvement projects submitted and approved by regional agencies SUDENE (Northeast) and SUDAM (Amazon region), from August 24, 2000, to December 31, 2023, relating to economic segments considered to be a priority for the development of these regions including energy.



PIS and Cofins



Any location in the Brazilian territory



Energy infrastructure projects



Suspension of PIS and COFINS on acquisitions of machines, equipment and services destined to the fixed assets of infrastructure projects in the energy sector.



PIS and Cofins



Any location in the Brazilian territory



Wind power



Zero tax rate of PIS and Cofins on the import of parts used exclusively or mainly in wind turbines, except for wind blades.



ICMS



Any location in the Brazilian territory



Solar and wind power



ICMS deferral for operations with machines, equipment and materials for the capture, generation and transmission of solar or wind energy, as well as the generation of energy from biogas, incorporated into the fixed assets of generating plants.



ICMS



Any location in the Brazilian territory



Solar and wind power



ICMS exemption on operations with equipment and components for the use of solar and wind energy, such as wind turbines, solar heaters, photovoltaic generators and others.



ICMS



State of Sao Paulo (SP)



Biofuel power



Reduction in the ICMS calculation basis in intrastate transactions for biogas and biomethane, so that the tax burden corresponds to a reduced effective tax rate of 12%.



ICMS



State of Sao Paulo (SP)



Biomass power



ICMS deferral for the output transactions of certain goods, destined to thermoelectric generating plants.



ICMS



State of Sao Paulo (SP)



Solar and wind power



ICMS exemption for operations with products related to wind and solar energy, such as wind turbines, solar water heaters, solar photovoltaic generators, solar cells, wind turbine blade and others.



ICMS



State of Sao Paulo (SP)



Wind power

ICMS suspension for the import and ICMS deferral for intrastate transactions of goods used as input in the manufacturing of products related to wind power generation, such as:

1. Wind turbines for converting wind energy into mechanical energy for the purpose of pumping water and / or grinding grains.
2. Wind turbines.
3. Tower to support the wind power generator.
4. Engine blades or wind turbine



ICMS



State of Sao Paulo (SP)



Biomass power

1. Suspension of ICMS on the import of goods destined for the incorporation of fixed assets without similar ones in the country for the purpose of generating thermal energy from biomass resulting from industrialization and residues of sugarcane.

2. Full and immediate utilization of ICMS credits related to direct acquisition from a manufacturer located in the state of São Paulo of goods destined for the incorporation of fixed assets for the generation of thermal energy from biomass resulting from industrialization and residues of sugarcane.



ICMS



State of Rio Grande do Norte (RN)



Wind power

ICMS exemption for the acquisition of fixed assets to produce of wind power.



ICMS



State of Rio Grande do Sul (RS)



Solar and wind power

ICMS exemption for entry operations of equipment for the solar energy system without a similar product manufactured in the country, imported from abroad, provided that the import is also benefited with exemption or zero rate of Import Tax or Federal Excise Tax.



ICMS



State of Rio Grande do Sul (RS)



Wind power



ICMS deferral for the intrastate energy supply from a wind farm to a concessionaire or energy distributor.



ICMS



State of Pernambuco (PE)



Solar and wind power



ICMS deferral for intrastate operations and for the import of metallic structure and cable from abroad destined to the wind or solar power generating plant and on intrastate operations or import of inputs for manufacturing photovoltaic solar generator.



ICMS



State of Minas Gerais (MG)



Solar and wind power



ICMS exemption for intrastate or interstate operation, with equipment or components intended for the use of solar or wind energy, such as wind turbines, solar water heaters, photovoltaic generators and others.



ICMS



State of Piaui (PI)



Solar and wind power



ICMS deferral and presumed ICMS tax credit for wind and solar energy generating plants considered relevant for the state of Piauí due to the relocation, revitalization and expansion of already installed plants.



ICMS



State of Piaui (PI)



Solar and wind power



ICMS deferral for interstate transactions related to the ICMS differential rate and on the import of machinery, equipment and materials intended for the capture, generation and transmission of solar or wind energy, incorporated into the fixed assets of generating solar or wind power generating plants.



ICMS



State of Rio Grande do Sul (RS)



Solar and wind power



ICMS exemption for the export of the following products among others:

1. Wind turbines destined to convert wind energy into mechanical energy for water pumping and/or grain milling;
2. Pump for liquids, to be used in specific photovoltaic solar energy system.
3. Solar water heaters.
4. Photovoltaic generators.
5. Wind turbines for wind energy.
6. Non-assembled solar cells.
7. Solar cells in modules or panels.
8. Support tower for wind power generator.
9. Motor shovel or wind turbine.
10. Parts and elements to be used in wind turbines, photovoltaic generators or in towers to support wind energy.

The legislation also grants to the producer or reseller the maintenance of the ICMS credits on the acquisitions of goods or services destined to produce or resell the items mentioned above.

 State of Rio Grande do Sul (RS)

 State of Rio Grande do Sul (RS)

 Biofuel power

 Until December 31, 2020, industrial units may recognize ICMS presumed tax credits to offset its debits due to the outbound of biodiesel type B-100, of its own production.

 ICMS

 State of Rio Grande do Sul (RS)

 Biofuel power

 ICMS deferral for the domestic sale of oil and fat, vegetable or animal, destined to biofuel producers.

 ICMS

 State of Bahia (BA)

 Wind power

 ICMS deferral for the import of parts, equipment and components made by manufacturers of wind turbines or entities that perform activities of maintenance and repair of wind turbines and other equipment for generating wind energy.





Jaime is the PwC Brazil O&G Industry Leader and also the current leader of the tax practice in PwC Rio de Janeiro's office.

He has 25 years of experience in tax advisory for local and international clients on a broad range of tax matters, and is currently responsible for advising relevant clients in the Energy and O&G industries operating in Rio de Janeiro, in addition to other clients in different industries such as mining, infrastructure and industrial products.

Jaime is a Law School Graduate from Federal University of the State of Rio Grande do Sul (UFRGS) and an Accountant (BS degree) from Catholic University of São Paulo (PUC/SP).

He has post-graduate studies in Economics and Energy Management (COPPEAD / UFRJ), Business and Project Management with focus on O&G (*Fundação Dom Cabral*) and also in O&G (COPPE/UFRJ).

Jaime Andrade

Tax Partner

Email: jaime.andrade@pwc.com

Office: +55 21 3232 6003

Mobile: +55 21 981291632

Brazil

03

Chile



This report provides a general analysis of the tax benefits contemplated in the Chilean legislation for projects related to renewable energy.

Projects for renewable, alternative or green energy, in other words energy sources based on the use of natural resources such as the sun, wind, water or plant or animal biomass, characterized by not using fossil fuels , but natural resources capable of unlimited renewal, at least on a theoretical level, are subject to the general Chilean Tax System, and do not have any especial benefits or incentives.

Below, the above aspects are analyzed in a generic way from the perspective of each individual tax.

All companies domiciled in Chile for tax purposes, are subject to the First Category tax or "IDPC" by its Spanish acronym, so the income received from the operation of energy projects related to renewable energy will be affected by these regulations.

A recent tax reform, contained in Act. 21,210, established a partially integrated system as the general system of income taxation, with a 27% IDPC rate, with the final taxpayer able to charge only 65% of the income tax paid against final taxes. In case the final taxpayer is not a Chilean resident, but resident in a country with a Double Taxation Agreement, they will be able to credit 100% of the IDPC against the applicable withholding tax (including the United States of America and United Arab Emirates), until 2026.



Deduction of expenses: general deductibility requirements

In general terms, the Chilean Income Tax Law establishes that for expenses to be deductible in the determination of the taxpayer's taxable income, they must meet the following joint requirements:

1. Related to the line of business or activity that the taxpayer carries out, understanding these expenses are those associated with the interest, development or maintenance of the business line.
2. Necessary to produce the income, understanding these expenses are able to generate income, in the same or future years.
3. Must not have been reduced as a direct cost of the goods and services required to produce the income.

4. The taxpayer must have actually incurred the expense or it must be accrued in the corresponding business year.

5. Must be credited or justified in a reliable manner before the Chilean Internal Revenue Service.



Start-up operating expenses

Start – ups and starting operations expenses are deductible for income tax purposes. They may be deducted during 6 commercial consecutive terms counted as of the date in which such expenses were generated or since the year in which the entity starts generating income from its principal activity, when this occurs after incurring the expense.



Depreciation of fixed assets

Pursuant to the provisions in N°5, Article 31 of the Income Tax Law, in the determination of the taxable net income (RLI), it is possible to deduct an annual depreciation quota of the physical fixed assets based on their use in the company, according to the net value of the assets at the balance sheet date, duly corrected according to art. 41 of the LIR.

The percentage or quota corresponding to the depreciation period is related to the years of useful life set by the tax authority and operates on the total net value of the good. The useful life years have been in a resolution from the SII¹.

There is a normal depreciation regime, and accelerated depreciation regime (1/3 of the useful life of the assets) and instant depreciation (which could be applicable to energy projects, for assets acquired between October 1, 2019 and December 31, 2021 provided certain requirements are met as per the transitory provisions introduced by the Tax Reform).

Intangible assets may not be amortized.



Special deduction of expenses incurred as a result of requirements from the environmental authorities.

The recent tax reform incorporated the possibility of deducting especially those expenses or disbursements incurred due to demands, measures or environmental conditions imposed for the execution of a project or activity, contained in the resolution issued by the competent authority that approves said project or activity in accordance with current environmental legislation.

1. Resolution N° 43 of 2002 issued by the Chilean IRS.

B. Value added Tax (VAT)

The supply of certain goods is considered by Chilean law as an act of commerce subject to this tax. This group includes the supply of most of the goods derived from energy activity, such as the supply of electrical energy, for example, so as a general rule, this supply activity is subject to VAT, at a flat rate that currently amounts to 19%.



Recovery of VAT Credits for the acquisition of fixed assets.

The Chilean VAT Law establishes in article 27 bis, an alternative and special mechanism for the recovery or “temporary refund” of VAT quotas (in Chile called “VAT Tax Credits”) generated in the acquisition of the taxpayer’s fixed assets, provided that:

1. They are VAT taxpayers.
2. Said taxpayer has generated VAT tax credits for the acquisition of movable or immovable tangible goods destined to form part of their fixed assets, or for the acquisition of services that must comprise the tax cost value of said fixed assets.
3. The taxpayer has remaining VAT Credits for two or more consecutive tax periods.

i. Contribution to regional development

The tax reform also introduced a new contribution for regional development that is established for investment projects that: (i) are developed

by companies required to keep full accounting records; (ii) involve an investment of US \$ 10 million or more in fixed assets, and (iii) must be reviewed by the Environmental Impact Assessment System or “SEIA”, by its Spanish acronym.

The contribution is applied to the amount that exceeds US \$ 10 million of investment with a rate of 1%, for a single time, in other words, it is a one-time tax.

Now, according to transitory articles, this contribution will only apply to new investment projects with an environmental impact assessment process starting after the law has been enacted (February 24, 2020).

ii. Municipal tax

The Municipal Revenue Law taxes the exercise of any profession, trade, industry, commerce, art or any other secondary or tertiary lucrative activity, whatever its nature or denomination.

The rate of this municipal tax fluctuates between 0.25% and 0.5% of the taxpayer’s adjusted tax equity, and its tax period is 12 months, and the rate is applicable at the discretion of the corresponding Municipality, within the aforementioned ranges.

1.1. Real Estate Tax

The real estate tax is an annual basis tax on the appraisal of real estate, which is grouped for

these purposes in two series: agricultural real estate and non-agricultural real estate. In the case of the first series, the applicable tax is a 1% rate per year, and in the second series, it is 1.4% per year.

If the real estate on which the Project will be built is not its own, but is a fiscal asset, the taxpayer will also be obliged to pay the corresponding territorial tax. Specifically, article 48 of Act. 17,235 establishes that



“The concessionaire or occupant of any title, of fiscal, municipal or national real estate for public use, shall pay the taxes corresponding to the occupied real estate.

All lessees of fiscal real estate are obliged to pay the real estate tax during the entire term of the lease and while materially occupying the property. Along the payment of rent, they must verify the timely fulfillment of this tax obligation ...”.

The real estate tax is a deductible expense for the entity, to the extent that it is directly or indirectly related to the operation of the company.

Finally, it should be mentioned that with the publication of Act. 21,210, a new land tax surcharge was established, applied to the tax assessment of real estate that as a whole exceeds 670 Annual Tax Units² (“UTA”). This surcharge will apply to individuals, and entities without legal personhood, with respect to the real estate owned by them according to the real estate ownership registry of the corresponding Real Estate Conservator. Small and Medium Entities are not subject to this tax.

The rate will be progressive, with the tax assessment section of up to 670 UTA exempt. The section of tax assessment on 670 UTA up to 1,175 UTA will be taxed with a rate of 0.075%; over 1,175 UTA and up to 1,510 UTA with a rate of 0.15%, and over 1,510 UTA, with a rate of 0.275%.

2. UTA for May and June 2020 equals CLP 604.464, approximately USD 740.



As part of the Chilean M&A Group, Loreto advises multinational companies' investments in Chile and other Latin American countries with respect to tax planning, acquisitions, and tax planning operations in general.

Loreto has vast experience advising international companies and has led very important tax due diligence projects for a large number of companies in various sectors. She has provided advice to national and multinational companies diverse tax-related matters, and has also led the development and implementation of international tax and legal structures. She has also led numerous tax structuring projects, as well as the tax implication analysis on financial modelling projects for foreign investors projects taking into consideration the recent tax reform in Chile.

Loreto Pelegri

Partner, Tax Consulting

Email: loreto.pelegri@pwc.com

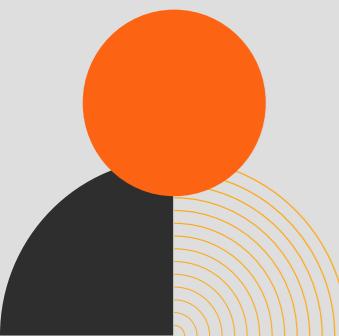
Phone: (+56) 2 2940 0113

She is a lawyer and holds a Master in Business and Administration (MBA) from the Catholic University of Chile. Tsinghua University School of Economics and Management, Beijing China, 2009.

She was invited by the Congress and by the Ministry of Finance to discuss the Chilean Tax Reform (2014 -2015).

She has 19 years of consulting and corporate advisory experience and played a lead role in more than 60 tax due diligence and acquisition transactions. Loreto speaks Spanish and English.

She was recognized as "The Lawyer of the Year" in 2016 by a Tax Law publication.



Chile

04

Colombia



Climate change is a reality that concerns every single person in the world. As this phenomenon complicates many countries have adopted more sustainable policies in order to entice taxpayers to invest on alternative sources of energy while maximizing shareholder value.

Colombia is endowed with abundant and diverse resources of conventional (hydroelectric) and non-conventional renewable energy. It has a high potential to develop NCSE which would contribute to improve the resilience of the sector. Recent evaluations by the UPME (2015) suggest that Colombia has a wind resource with the potential to develop 30 GW of installed capacity, geothermal resources to develop between 1 and 2 GW, as well as regions with very high solar irradiation, such as La Guajira and the Caribbean Coast in general (*Unidad de Planeación Minero-Energética, 2015*).

The world atlas of the International Journal of Hydropower and Dams places Colombia's hydroelectric potential (economically viable) at 140 TWh per year, which is significant considering that its average annual generation is around 45 GWh (World Energy Council, 2013). According to analyses carried out by the Inter-American Development Bank, only 25% of the hydroelectric potential in South America has been exploited and there are still more than 500 GW to be

explore, out of which Colombia has a potential of 56.18 GW.

Therefore, Colombia has adopted a series of laws and regulations that specifically promote the use of non-conventional energy sources, energy efficiency and investments in the control, conservation and improvement of the environment.

Under the Colombian Law³, three (3) different forms of tax incentives have been introduced since 2014.

1. Non-Conventional Source of Energy ("NCSE")

Act. 1715 of 2014 was introduced in order to promote investment and development of NCSE with a specific emphasis on renewables. These rules, as set out below, have been upgraded over the years and survived a series of tax reforms.

A. 50% Corporate Income Tax Deduction

New investments in NCSE projects are granted an additional 50% income tax deduction over costs and expenses related to research and development to produce, use and manage energy from NCSE. Investments through lease arrangements may also be available subject to an irrevocable purchase option being present. Failure to exercise the purchase option, or the disposal of the relevant assets prior to the end of the useful life causes re-capture rules to apply.

This benefit is only valid for corporate income tax purposes and may impact the taxation of dividends paid out of untaxed profits.

The annual amount to deduct is capped at 50% of the taxpayer's net taxable income before these expenditures, and must be claimed within fifteen (15) years following the year in which the investment is made. Up until recent years the allowance was to be used within five (5) years only, which effectively limited the impact for tax purposes.

To enjoy the benefit, the taxpayer must apply for and obtain a certification from the Energy and Mining Planning Unit ("UPME" as the acronym in Spanish) for the renewable energy project. This process generally takes between six (6) to eight (8) months to complete. Draft regulations currently propose to introduce changes to the process including expedited procedures taking fifteen (15) days following the applicant's submission.

B. Accelerated Tax Depreciation

Machines, equipment and civil works in real estate purchased or built exclusively for the pre-investment (R&D), investment for the management, operation and maintenance and operation NCSE projects are eligible for accelerated tax depreciation (Environmental Certificate from "ANLA" is required) at 20% over five (5) years. This rule allows for a faster recovery of the investment through depreciation, if compared to standard tax depreciation rules which provide for extended depreciable periods.

This benefit can be applied simultaneously with the 50% allowance for corporate income tax as set out above.

C. VAT Exemption

Equipment, measuring instruments, machinery and services rendered in Colombia or abroad in connection with new investments and pre-investments for the generation and use of NCSE projects are VAT exempted (as opposed to generally being subject to 19%). This exemption represents a significant advantage from a cash flow perspective regarding capex, and also in regard to the opex since the generation and sale of energy is also VAT exempted (creating VAT costs).

The exemption is valid upon presenting to vendors or customs authorities an UPME-issued certificate where the specific item is listed. Applications to obtain this VAT exemption generally take over six (6) months to process. Planning ahead of procurement is generally recommended.

D. Customs Relief

The import of machinery, equipment, etc intended exclusively for pre-investment and investment of NCSE projects is exempt from custom duties, as long as there is no local production for the same item. An UPME-issued relief license is required in order to effectively claim the exemption. License is required in order to effectively claim the exemption.

E. Income Tax Exemption

Income from the sale of electricity from renewables such as solar, wind, biomass, among others, is exempted for fifteen (15) years starting in 2017 provided that the following requirements are met:

- Carbon credits are obtained and sold in accordance with national government regulations.
- At least 50% of the proceeds from the sale of such carbon credits is invested in communities in the region where the generator operates.

More importantly, this exemption cannot be used concurrently with the 50% allowance or the accelerated tax depreciation set out before.

This benefit is only valid for corporate income tax purposes and may impact the taxation of dividends paid out of untaxed profits.

Special thanks to Isabella Bello, tax manager at PwC Colombia for her valuable contribution to this publication.



2. Energy Efficiency

Energy efficiency is the ratio between the energy effectively used and the total energy consumed in any process where good practices and carbon substitution are present.

A. 25% Income tax credit

Taxpayers that directly make investments in energy efficiency projects are allowed to claim up to 25% of the investment as a tax credit against income tax liabilities, except where the investment is made by mandate from ANLA. In order to claim the 25% tax credit, the project must be approved by ANLA, prior to the submission of the corresponding income tax return.

B. VAT exemption

An exemption is available for machinery and equipment for the development of projects or activities that are registered in the National Registry of Reduction of Greenhouse Gas Emissions, demonstrating a reduction of emissions (as opposed to generally being subject to 19%).

3. Control, conservation and improvement of the environment

Projects intended to (i) prevent the generation of solid or liquid waste, (ii) reduce the demand for solid and liquid waste, (iii) improve the quality of solid and liquid waste, (iv) preserve and protect biodiversity and renewable natural resources, are also eligible for tax benefits as set out below.

A. 25% Income tax credit

Taxpayers that directly make investments in projects featuring any of these attributes are eligible for a 25% credit of the investment against the income tax liability, except where the investment is made by mandate from ANLA. In order to claim the 25% tax credit, the project must be approved by ANLA, prior to the submission of the corresponding income tax return.

B. VAT exemption

An exemption is available for the import of machinery or equipment, as long as said machinery or equipment is not produced in Colombia, that is intended to recycle and process garbage or waste (the machinery includes washing, separating, recycling and extrusion), as well as for purification or treatment of wastewater, atmospheric emissions or solid waste, among others.

Availability of the exemption is subject to the relevant project being certified by the Ministry of Environment.



Experience:

A member of the Firm since 1995, Carlos is a tax partner based in Bogotá with extensive experience in national and international corporate taxes. For several years he was a member of the International Assignment Solutions practice in Colombia. During 2001 and 2002, Carlos went on a tour of duty to New York where he joined the Latin American Tax Group.

Currently he is also the country's tax practice leader as well as the LATAM Energy tax leader.

Studies:

Lawyer from the *Universidad Sergio Arboleda*, specialist in Tax Legislation from the *Universidad del Rosario*. He is also trained in International Business Law, US and Colombian Legal Systems arranged by the *Universidad Javeriana* and the Washington College of Law of American University.

He has been a Professor at the Externado University of Colombia, *Javeriana, Jorge Tadeo Lozano and Colegio Mayor de Nuestra Señora del Rosario*. Since July 2007, he has been a partner in the Tax and Legal Line of Services at the PwC office in Cali. He is the Lead Partner for Colombia for the practice of International Tax Consulting.

Relevant projects:

Carlos' experience includes intensive participation in tax consulting for local and international clients and reorganization projects.

Colombia



Experience:

Isabella has rendered tax advisory services to different local and international companies. She has also helped in the preparation of tax planning structures at both the local and international level for over 8 years. She is now a Manager in the tax and legal services team.

Academic and professional training:

Lawyer, graduated from *Universidad Sergio Arboleda* in Bogotá, with a specialization in Tax Law from *Universidad Externado de Colombia*.

Relevant projects:

She has developed national and international tax planning projects. Additionally, she is part of the consulting and litigation teams.

Isabella Bello Hurtado

Manager

Email: isabella.bello@pwc.com

Phone: +57 (1) 6340555

Colombia

05

Ecuador



According to the Constitution of the Republic of Ecuador, the State must promote energy efficiency, development and use of environmentally clean and healthy technology practices, as well as the use of renewable energy.

The source of electrical energy production in Ecuador in the past years has been generally conventional, mainly from fossil fuels such as oil. However, according to the 2018 National Energy Balance report published by the Ministry of Energy and Non-Renewable Natural Resources, the energy supply for 2018, came from 70.5% of hydroelectricity, 27.3% from thermal sources, 1.9% from other renewable sources and 0.4% from the interconnection with Colombia and Peru.

It is highlighted that the production of renewable energy in Ecuador has shown a growth of 33% between 2008 and 2018, having hydropower as the main component. Only in 2018, the production of this energy source grew by 2.9% compared to 2017.

According to the Electricity Master Plan (2015 -2025) published at the time in 2017 by the Ministry of Electricity and Renewable

Energy, potential values have been estimated for obtaining renewable energy in the country such as hydroelectric, wind, solar and geothermal.

In order to increase renewable energy generation in the country and in line with the above, approximately a year ago, the Ecuadorian Government announced the intention to build a photovoltaic power plant with an installed capacity of 200 megawatts and two wind power plants with an installed capacity of 110 megawatts. These projects have an estimated investment of USD 400 million and would be carried out through a concession with the private sector.

The main benefits and tax incentives for companies in the renewable energy sector are summarized below. From a tax point of view, renewable energy is part of the economic sectors prioritized by the Ecuadorian State and therefore, subject to various benefits that encourage the development of that economic sector. Currently, there are public processes open by the State to grant a concession for the construction and operation of this type of projects. Each benefit mentioned in this document is subject to compliance with conditions.

Corporate Income Tax (CIT)

→ Additional deductions for CIT tax base determination. Among others: i) 100% of the remuneration paid for a net increase in employment; ii) 100% additional depreciation corresponding to assets, machinery and equipment destined to generate renewable

energy; iii) 100% deduction for payment of medical insurance to workers; iv) amortization of tax losses for a period of 5 years.

→ CIT exemption from 5 to 15 years from first year in which income attributable to the new investment is generated. The years of exemption depend on the tax regime applied by company. The table below shows a brief summary:

- Exemption from income tax withholding (WHT) for 10 years in the distribution of dividends under the LOAPP regime.
- WHT exemption in interests for external credits for project development, to related and unrelated parties.
- Non-application of deductibility limits (thin - capitalization) for financial costs of external credits granted by related parties provided it is granted to finance delegated and public projects of common interest, qualified by competent public authority.

| Tax Regimen | Exemption years | Sector | Geographical location of investment in Ecuador |
|-------------|-----------------|--|--|
| COPCI | 5 | Prioritized economic sector: Renewable Energy | Non-urban areas of Quito and Guayaquil |
| LOAPP | 10 | | Any location in the country |
| LOFP | 8 or 12 | | Urban and non-urban areas of Quito and Guayaquil |
| LOSCC | 15 | | Provinces of Manabi and Esmeraldas |

COPCI: Organic Code of Production, Commerce and Investments
LOAPP: Organic Law of Incentives for Public-Private Partnerships

LOFP: Productive Investment Law

LOSCC: Citizen Social Co-responsibility and Solidarity Law

Value Added Tax (VAT)

- 0% VAT rate on import of related goods for development of project under the LOAPP regime.
- 0% VAT rate on commercialization of electrical power for a public electrical entity.
- 0% VAT rate on solar panels

Remittance Tax (ISD)

Exemption from 5% of ISD in:

- Payment of principal and interest for external credits, granted by related parties or others.
- For the import of goods and services related to the project under the LOAPP regime.
- For the import of capital goods and raw materials under the LOFP regime, provided that an investment contract is signed with the State.
- Payment or return abroad of foreign currency that entered the country as owned capital or for financing without interest in an amount equivalent to the foreign currency brought in, provided that it has been destined to make new and productive investments, and only if the foreign currency has remained in Ecuador for at least 2 years.

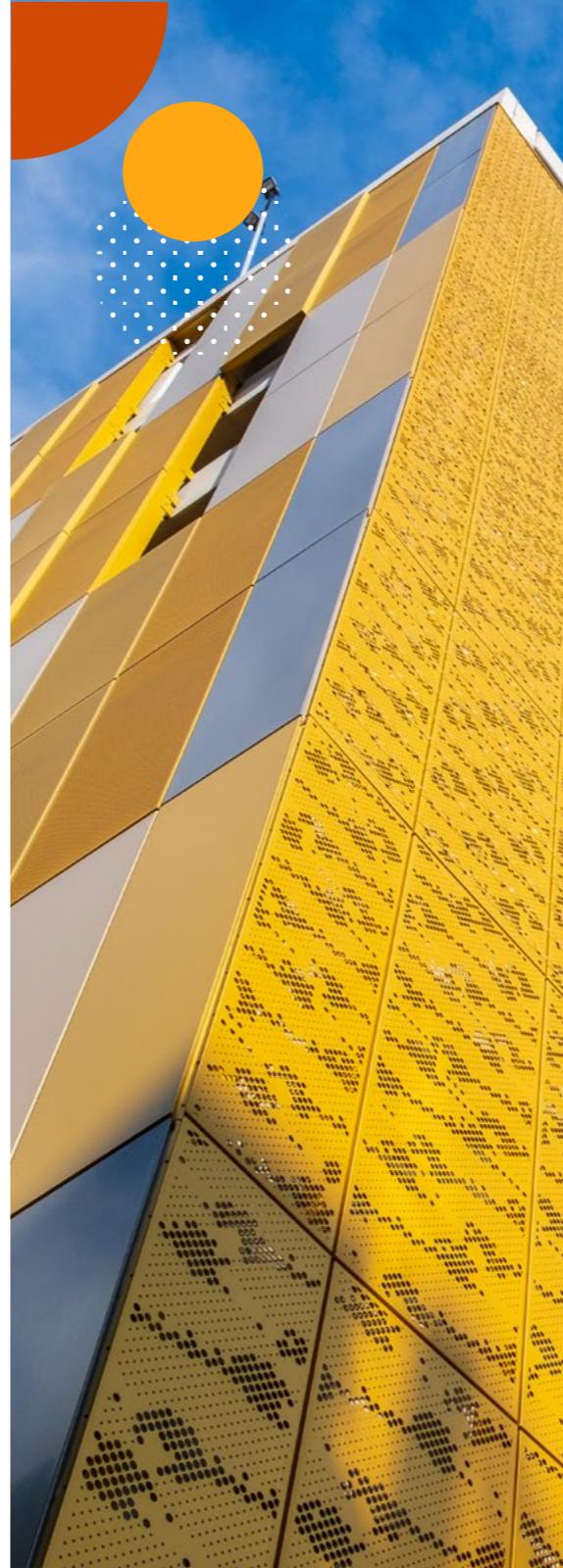
ISD tax credit that can be used to pay CIT.
ISD refund can also be requested to the Tax Administration.

Customs Duties

- Exemption from customs duties on the import of goods related to investment projects under the APP regime.
- Exemption from customs duties for imports of goods that lack national production or which technical characteristics are not found in the country as per the guidelines of the Committee on Foreign Trade (COMEX) in Ecuador.

Other

Upon request from the investor, there is the possibility of signing an investment contract with the State that grants stability on tax benefits, and in other cases, additional general tax stability subject to the fulfillment of some conditions.



Summary

Even though there are aspects not specifically included in the Ecuador section (pages 24 and 25), the summary tab shows points as not applicable in the country, but which do exist and could also be applied by an entity dedicated to renewable energy:

- Accelerated depreciation: for Ecuador it is also applicable for certain assets (those which have intensive use and provided that they are new and with a useful life of at least 5 years).
- Amortization of losses: it is also applicable for Ecuador; up to a maximum period of 5 years, with a limit of 25% of the taxable income of each year.
- Tax credit: also applicable for Ecuador. Income tax withholdings applied by customers may be used as a tax credit or request a refund to the Tax Administration for up to the following 3 years.



Pablo Aguirre is the Lead Tax & Legal Partner at PwC Ecuador. He is an Economist and holds an MBA from the University of Quebec, with post-graduate studies in Business Law from Universidad San Francisco de Quito (USFQ).

Pablo has vast experience in the tax consulting field. His experience includes participating in projects relating to tax accounting, tax planning and strategy as well M&A and due diligence. Additionally he has significant experience as an instructor on internal and external courses relating to tax planning, financial products and other general tax-accounting matters.

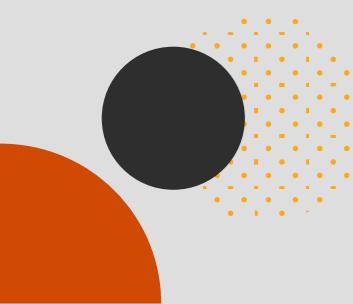
He has participated in various tax and finance specialization courses in Venezuela, Chile, Colombia, Argentina, Paraguay, the US and Ecuador.

Primary areas of expertise

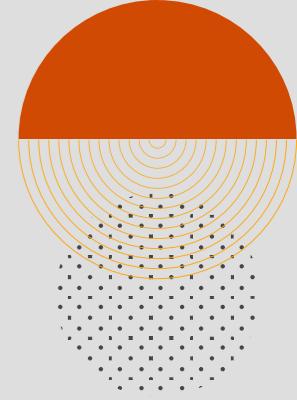
- International and cross-border taxation
- Tax strategy and structuring
- Due diligence and review of tax accounting processes
- Consulting in Transfer Pricing

Other relevant aspects

Industries: Energy, Mining, Oil



Ecuador





Iván Triviño is a consulting and compliance Manager in the Tax Division of PwC Ecuador and is based in the Quito office. He has an Accounting Engineering degree from *Universidad Católica de Guayaquil* and has Master degree in Accounting and Finance from the *Universidad de Especialidades Espíritu Santo*.

Primary areas of expertise

- Local and international consulting
- Tax compliance
- Due Diligence
- Tax audits and reviews

Relevant projects

Iván has over 9 years of experience in tax consulting and compliance. His career trajectory includes experience in local taxation, tax compliance, tax planning and structuring, tax-accounting advice, evaluation and quantification of tax contingencies, participation in tax audit and assessment processes initiated by the Tax Authorities, among others.

Iván Triviño

Manager

Email: ivan.trivino@pwc.com

Phone: +593 (2) 3829 314

Ecuador

06

Peru



Tax benefits and incentives in Peru for Renewable Energy Resources

1. Regulatory Framework

The regulatory framework established in Peru for renewable energy resources was issued in May 2008, by Legislative Decree N° 1002 - Law for the promotion of investment in electricity generation through the use of renewable energy -.

Through this law, the promotion of renewable energy is established as a national priority, considering as renewable the solar, wind, geothermal, biomass and hydroelectric resources. It also established targets for the percentage of renewable energy sources from the total domestic consumption and assures long-term stable tariffs.

In addition, among other regulations, Supreme Decree N° 012-2011-EM - Regulation of electricity generation using renewable resources -, established the administrative procedure for tender and award of concessions to the energy sector.

2. General Tax Regime

In relation to the tax regulations in Peru for renewable resources, even when there are special tax benefits and incentives applicable to said sector, there is no special tax regime applicable to renewable energy in Peru, thus the general tax regime applies.

Regarding the general tax regime in Peru, we can find the following as the main taxes to have in mind:

1. Corporate Income Tax ("CIT"):

The applicable CIT rate is 29.5% over net income. Expenses are deductible, although there are some limits established by law for the deduction of certain expenses (i.e. thin capitalization rules, donations, marketing expenses, among others).

Tax losses may be offset according to either one of the following systems and the choice must be made when filing the tax return. Once the choice of the system is made, it cannot be modified unless all losses have expired. The systems are the following:

A. Against net income generated within the coming 4 fiscal years after the year in which the loss was incurred (except for losses incurred in 2020, which can be offset during the following 5 years, due to the Emergency State in the context of COVID-19). Any losses that are not offset during that period may not be carried forward to any future year.

This system is more convenient when the return of the business or project is expected in a short term.

B. Against 50% of the net income generated in the fiscal years after the year in which the loss was generated. Under this system, there is no time limit for carrying the losses forward.

In contrast to system a), system b) is convenient when the return of the business or project is expected in a medium or long term, in order to avoid the impossibility of carrying the losses forward.

However, the selection of one of the methods should be analyzed case by case, depending on the specific circumstances.

Distribution of benefits to shareholders is subject to 5%, provided that the shareholder is a domiciled individual or a non-domiciled individual or entity. Distribution of profits between Peruvian companies is exempted from this tax.

2. Temporary Net Assets Tax ("TNAT"):

This tax levies the value of the total assets of a company in excess of PEN 1'000,000, at a rate of 0.4%. The amount paid for TNAT may be credited against the taxpayer's CIT. If not totally used, the remaining TNAT may be refunded by the Tax Authority.

3. Financial Transaction Tax ("FTT"):

Applies on debit and credit transactions with Peruvian banks, subject to a rate of 0.005%.

4. Value Added Tax ("VAT"):

Companies are subject to VAT for (i) the transfer of movable goods, (ii) services rendered in the country, (iii) first sale of real estate made by the constructor, (vi) construction agreements, and (vi) import of goods and services, at a standard rate of 18%. The VAT law follows a debit/credit system, and input VAT may be offset by output VAT. Should excess input VAT be obtained in a particular month, it shall offset output VAT obtained during the following months, until it is exhausted. Input VAT is not refundable.

5. Contribution to the Supervisory Agency of Investment of Energy and Mining of Peru ("OSINERGMIN"):

This contribution applies to the generation, transmission and distribution concessionaires in the electricity sector. The basis for calculating the contribution is the monthly invoicing of activities directly included OSINERGMIN's regulatory scope and the rate of this contribution is 0.51% in 2020, 0.49% in 2021 and 0.47% in 2022.

3. Benefits and incentives for renewable energy resources

As stated before, even though there is not a special tax regime applicable to renewable resources, a number of benefits apply to the sector, such as:

1. Early Recovery of VAT:

Legislative Decree N° 973 established a regime that allows companies at pre-operative stage to recover the input VAT on the import and/or local acquisition of new capital goods, new intermediate goods, services and construction contracts, that were acquired in the pre-operative stage, to be used directly in the execution of a project investment commitment and which are destined to the performance of operations levied with VAT or exports.

As it can be noted, although this benefit is not exclusively for the renewable resources sector, it is applicable, provided that the applicants comply with the following requirements:

A. The implementation of a project in any economic sector (such as renewable energy resources), that generates corporate income, committing to invest not less than USD 5'000,000, VAT not included.

B. The pre-operative stage of the project lasts 2 or more years, counting from the date of initiation of the investment schedule.

C. Obtention of Ministerial Resolution in the corresponding sector (in this case, the Ministry of Energy and Mines), approving the entities who would benefit from the regime; as well as the list of goods, services and construction contracts approved for the early recovery of the VAT.

According to Legislative Decree N° 084-2007-EF, the refund process will be as follows:

A. The Company would have to file Form N° 4949 (refund request) provided that the following requirements are met:

→ The minimum amount that must be accumulated to request the VAT refund is 36 Tax Units (approx. USD 45,160).

→ This request may be submitted as from the month following the date of the registry of the invoices (and other documents related to VAT payments) in the Purchase Registry, on a monthly basis.

→ The refund request should not accumulate a period greater than six (6) months, unless the amount of the refund for said period is less than the minimum amount of thirty-six (36) Tax Units.

The VAT refund will be processed in the form of Negotiable Credit Notes.

The term established for the VAT refund through the corresponding Negotiable Credit Note will be

5 working days from the day following the date of filing the request.

2. Special accelerated depreciation regime for CIT:

Legislative Decree N° 1058, which promotes investment in the electric generation activity with hydro and other renewable resources, establishes a special depreciation regime for investments made in energy generation with renewable resources.

In fact, pursuant to said provision, up to December 31st, 2025, machinery, equipment and civil construction necessary for the installation and operation of plants to generate electrical energy from renewable resources (such as wind, sun, geothermal, biomass or tidal), may be depreciated at a maximum global annual rate of 20%. The benefit applies to hydro and other renewable plants built after the effective start date of the Legislative Decree.

There is no specific notification process to access to the special energy asset depreciation regime. In that sense, companies that fulfil the conditions established, are able to apply the beneficial depreciation rate automatically. Additionally, companies are able to modify such depreciation rate annually by filing a notification letter to the Tax Authority, as long as the new depreciation rate does not exceed the abovementioned limit of 20%.

As this depreciation regime has been established by a special provision, the requirement of having

the accounting registry of the depreciation of the asset in order to allow the deduction of the tax depreciation is not required.

Additionally, entities must consider the Tax Authority ruling stated in Report N° 078-2015/SUNAT indicating that:

“(...) the accelerated depreciation regime established by Legislative Decree N.1058 is only applicable to entities that start the operation of new power generation plant as from the date such Legislative Decree was into force, regarding machinery, equipment and civil work, acquired and/or constructed as from the abovementioned date for installment and operation of such power generation plant.

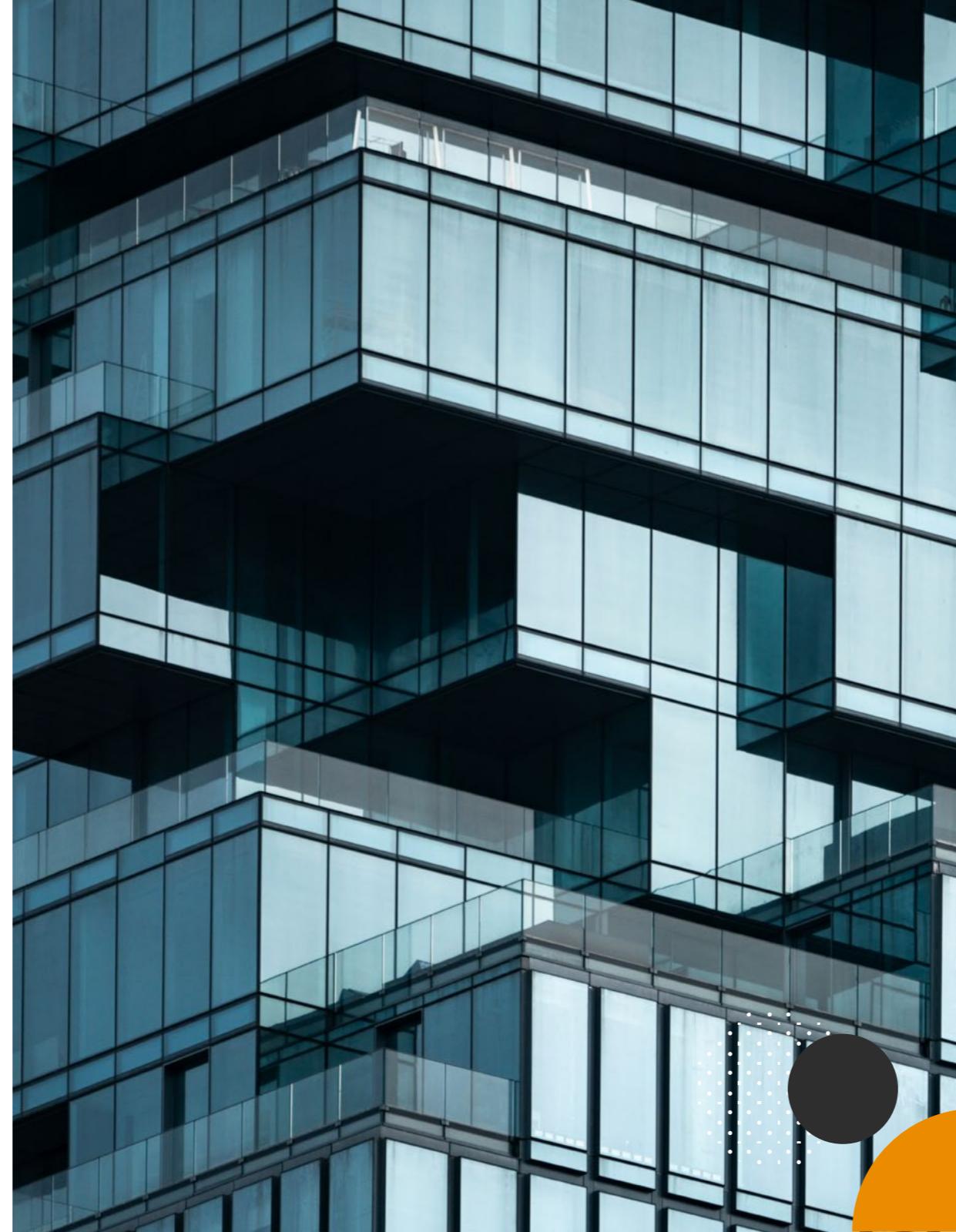
Consequently, in case an operative power generation plant is transferred, the acquirer will not be benefited from the accelerated depreciation.”

3. Special accelerated depreciation regime for assets acquired through leasing agreements:

Although this benefit is not exclusive for the renewable resources sector, it is also applicable. According to Legislative Decree N° 299, assets acquired through a leasing will be depreciable during the term of the leasing agreement, provided that the following requirements are met:

- A. The purpose of the agreement is, exclusively, the assignment in use of goods that are considered as a cost or expense for CIT purposes.
- B. The lessee uses the assets in the development of its economic purpose.
- C. The term of the agreement shall not be shorter than 2 or 5 years, for movable goods or real state property, respectively
- D. The call option may only be exercised at the end of the agreement.

In that sense, assets acquired through a leasing to develop a renewable resource project may benefit from the accelerated depreciation of assets according to the term of the leasing agreement.



4. Tax Stability agreements:

Investors in renewable resources may enter into stability agreements with the government under the regimes in Legislative Decrees N° 662 and 757, in which case, they ensure the following advantages for a 10-year period:

- A. Stability of the CIT regime in force at the time the agreement is entered into, including dividends and profit distribution.
- B. Stability of the Peruvian government monetary policy, according to which there is a complete absence of exchange controls, foreign currency can be freely acquired or sold at whatever exchange rate the market offers, and funds can be remitted abroad without any prior authorization.
- C. Right of non-discrimination between foreign and local investors.

For such purpose, an investment through the National Financial System for no less than USD 5'000,000 is required. The investment can be made into the capital of an existing company or one to be created.

The objective of these measures is to promote the investment in renewable energy projects in the country, to ensure a general access to affordable and reliable energy services, as well as minimize the impact on the environment, among other goals.



Daniela is a Peruvian lawyer graduated from *Universidad de Lima* in Peru. She holds a Degree in “Mining Law, Management and Socio-Environment Responsibility” from “Universidad del Pacífico”. She concluded MBA studies at Universidad del Pacífico in alliance with the Esade Business School.

She has broad professional experience providing tax assistance services to Peruvian and multinational companies dedicated to mining, electricity and services in general. Her work comprises legal and tax advise, private investment advise, tax structuring of M&A and defense in tax audits performed by the Tax Administration. Daniela has worked in the international tax area of PwC in Santiago de Chile, as part of a global mobility program.

She is a member of the Lima Bar Association, the Peruvian Institution of Tax Law and the International Fiscal Association.

Daniela Comitre

Partner

Email: daniela.comitre@pwc.com

Phone: (+56) 2 2940 0689

Peru



Katarzyna is a Peruvian lawyer graduated from *Pontificia Universidad Católica* in Peru. with a Master's degree in Tax Law (2019).

Specialist in tax law in the Energy and Hydrocarbons sector.

Professor of the Faculty of *Pontificia Universidad Católica del Perú*'s Law School .
She is a member of the Lima Bar Association, the Peruvian Institution of Tax Law and the International Fiscal Association.

Katarzyna Dunin Borkowski

Director

Email: katarzyna.dunin@pwc.com

Peru

07

Uruguay



Regulations in force establish that any public or private entity is free to generate electrical power. However, the transmission and distribution of such energy can only be carried out by “Administración Nacional de Usinas y Transmisiones Eléctricas” (“UTE” per its acronym in Spanish), a Uruguayan state-owned entity. Because of this, the generation of electrical power by private entities/individuals must be for self-consumption or to be sold to UTE.

In recent years, Uruguay has completely transformed its energy matrix. Between 2010 and 2016, approx. US\$ 7.8 billion were invested in energy and related infrastructure, and as a result, almost 97% of the electrical power is now generated from renewable sources. Indeed, in 2018, 38% of electricity generation corresponded to wind power (the second largest in the world in terms of percentage of this energy in the electricity matrix), 7% biomass, 3% photovoltaic, 3% thermal and the rest -almost half- hydroelectric.

Uruguay was recognized as one of the leading nations in the world in producing wind and solar power and the Uruguayan experience was recognized by the International Renewable Energy Agency as an example of successful management of an electric system with relevant participation of renewable energies.

There are several tax incentives applicable to the renewable energy sector in Uruguay:

1. Investments Promotion Regime (Act. 16,906 and Decree N° 143/018)

The Investment Promotion Law and its regulatory rules grant relevant tax incentives to general investment projects promoted by the Executive Power (EP).

Under this regime, an Investment Project must be submitted to the EP, in which the characteristics and timing of the investments to be made must be detailed. If approved, the EP issues a

resolution declaring the status of the promoted project, specifying the maximum amounts and validity period for the tax benefits granted.

The investments that could apply to the Investment Promotion regime (“eligible investment”) are the following:

- Fixed assets.
- Construction or fixed improvements to real estate property (owned or leased).

It is important to note that the fixed assets that are subject to tax exemptions should be maintained by the companies for the term of their useful life or at least 10 years, in case the lifetime is longer.

The main tax benefits are subject to compliance with several indicators, such as employment generation, geographic decentralization, increase of exports, use of clean technologies, investment in R&D+i and specific sectorial indicators. These indicators conform the “indicator matrix”, from which a score is assigned to the project. That score determines the amount and term of the tax benefits granted to the company.

According to the rules in force, the following tax benefits could be granted by the EP:

- CIT exemption: from 20% to 100% of the amount effectively invested. The amount and period to use the benefit – not less than 3 years - would depend on the indicator matrix and size of the project. The benefit

is deducted directly from the payable CIT and the mentioned annual exoneration amount may not exceed 60% (80% for new companies) of the CIT for each year.

- Net Wealth Tax (NWT) exemption: movable fixed assets included in the investment project - for all their useful life -, and construction works and fixed improvements - for 8 years if located in Montevideo or 10 years if located elsewhere in the country.
- VAT refund on the local purchase of goods or services for construction and fixed improvements to real estate property.
- VAT and custom duties exemption for the import of fixed assets considered non-competitive with the national industry.

While the granting of tax benefits is conditioned by the fulfilment of certain investment and the measurable objectives (indicators), non-compliance with those may bring several sanctions.

As mentioned before, the indicator matrix includes certain indicators related to **renewable energy investments**, which will be detailed as follows.

Firstly, the “**use of clean technologies**” indicator promotes the investment in certain goods related to renewable energy, granting additional score to the Investment Project if such goods are included. The list of promoted goods included in such category is the following:

- Closed biomass stoves.
- Energy cogeneration systems.
- Thermal generation equipment which replaces fossil fuels.
- Energy generation/use equipment from renewable sources: geothermal, wave, small hydroelectric plants, concentration solar.
- Solar thermal, wind, solar photovoltaic and waste energy systems.

In addition, as a part of the specific sectorial indicator, the regime includes a “sub indicator” so called **“avant-garde renewable energy”**, through which the companies will obtain additional score for investments in avant-garde energy sources.

2. Power Generation Regime (Act. 16,906 and Decree N° 354/009)

In the context of the referred Promotion of Investments Law, a specific regime of tax incentives is foreseen for the renewable energy sector. The activities declared promoted by such rules are:

- A. Electricity generation from non-traditional renewable sources
- B. Electricity generation through co-generation
- C. Energy resources production from renewable sources.

- D. Conversion of solar power into thermal power.
- E. Conversion of equipment and/or integration of processes intended for the efficient use of energy.
- F. Services rendered by Energy Service Companies (ESCOs) registered within the National Directorate of Energy and Nuclear Technology and qualified as category A.
- G. National manufacturing of machinery and equipment intended for use in the aforementioned activities

In order to have access to the tax benefits, the companies rendering the abovementioned services must submit the exemption request to the EP.

The tax incentives applicable to the activities are the following:

- CIT exemption to the income originated in activities mentioned in b), c), d), e), f) and g): 40% of the net taxable income for fiscal years initiated between January 1st 2018 and December 31st, 2020.
- CIT exemption to income originated in activities mentioned in a): 60% of the net taxable income for fiscal years initiated between January 1st, 2018 and December 31st, 2020; 40% of the net taxable income for fiscal years initiated between January 1st 2021 and December 31st, 2023.

For the activities mentioned in a) and b), the CIT exemption only applies when electric energy is sold under certain conditions.

It is worth noting that companies that have investments promoted under this specific regime could also request the tax benefits included in the Investment Promotion Regime, except for the CIT benefits, having to decide between one regime or the other.

3. VAT Exemption and custom duties for solar panels for photovoltaic power generation (Act. 19,406 and Decree N° 454/016)

According to the regulation in force, the local sale of solar panels for photovoltaic power generation are VAT exempted. Also, manufacturers of the aforementioned goods will be entitled to obtain a credit for the VAT included in the purchase of goods and services that directly integrate the cost thereof.

Moreover, imports of goods destined to directly integrate the cost of solar panels for photovoltaic power generation referred before will be exempted of VAT and customs duties.

For these purposes, manufacturers and importers must obtain a certification issued by the Ministry of Industry, Energy and Mining.





Patricia is a Tax and Legal Services Partner in PwC Montevideo (Uruguay)

Patricia joined the firm in 1987. Since then, the main focus of her work has been advising both domestic and multinational companies regarding local and international tax services. She serves a large number of subsidiaries of international corporations in Montevideo.

As a Partner in the Tax Department, Patricia has an extensive involvement developed over 33 years in tax consulting. Patricia is experienced in Income Taxes, International Assignment Services, Social Charges as well as tax planning. Patricia is a Public Accountant, holding a degree from the Uruguayan State University.

She is the leader of Energy, Utilities and Mining for PwC Uruguay, interacting continuously with local and foreign specialists in the industry belonging to different areas.

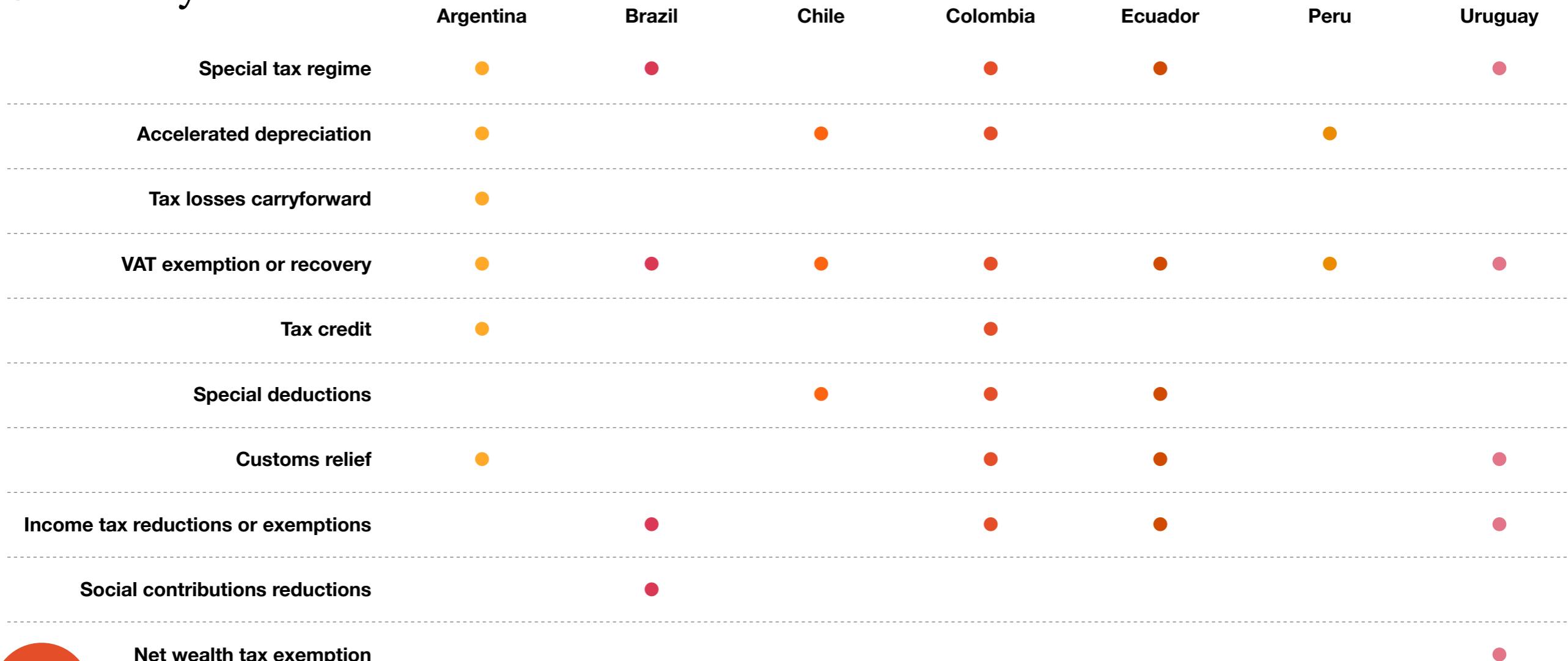
She has also labor and tax experience in due diligence process. She participated in more than 100 Merger & Acquisition transactions, due diligence procedures and post deals structuring, advising both domestic and multinational companies.

Patricia teaches at various Universities and has participated in many forums and dictated several conferences in local and international events, as well as published various technical articles in specialized publications.

She is member of the National Tax Bureau (*lstituto Uruguayo de Estudios Tributarios*), the National Accountants Forum (*Colegio de Contadores, Economistas y Administradores del Uruguay*), the International Fiscal Association (IFA) and President of Junior Achievement Uruguay.

Uruguay

Summary





This document has been prepared solely for purposes of general orientation on matters of interest and does not constitute professional advice. One should not act on the information contained in this publication without obtaining specific professional advice. No representations or warranties (express or implied) are made regarding 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 liabilities, responsibility or care duty for the consequences of your actions or anyone acting, or not acting, based on the information contained herein, nor for any decisions based on this document. This publication (and any excerpts from it) must not be copied, redistributed, or shared on any website without prior written consent from PricewaterhouseCoopers.

PwC helps organizations and individuals create the value they're looking for. We're a network of firms in 155 countries with more than 284,000 people who are committed to delivering quality in assurance, tax and advisory services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

©2021 PricewaterhouseCoopers. PwC refers to the Colombian firms, part of the global network of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity. All rights reserved.

