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A Guide to VAT/GST/SUT in the Americas 2018

Indirect Tax Guidance of 21 Countries in the Americas

NEW
updates from Argentina, Mexico and Panama

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Foreword

Consumption taxes play a crucial role in the Americas, regardless of whether those are assessed as Value Added Tax (VAT), Goods and Sales Tax (GST), Sales and Use Tax (SUT) a Customs duty or excise tax. For tax authorities, indirect taxes are an efficient and often a fair way of raising revenue and we see indirect tax revenues continue to increase as a proportion of tax take around the world. The rules, rates, interpretations and practices are also constantly changing.

For businesses, the administrative and risk burden of indirect taxes often lands heavily. Penalties are generally becoming a greater risk and the changes in indirect tax practices and rules can be difficult to keep up with. Based on these risks and the increased personal responsibility of company leaders, the subject of indirect taxes has risen up the agenda in companies to CFO and board level. Meanwhile, because indirect tax accounting can be affected by so many internal processes within a company, thinking internationally, understanding technology, the set-up of accounting systems and being able to connect with people in many parts of a business has become a crucial part of an indirect tax professional's life as well as keeping up to date with the changes, the risks and opportunities these present.

Taking a closer look at the Americas, it seems that more and more countries are focusing on the OECD guidelines for VAT; especially on trying to level the playing field for taxpayers and avoiding too many exceptions to rules.

There is an impressive level of e-invoicing, archiving and technology facilitation rules within the Americas too – something that has to be the way forward in our modern world.

Three major VAT reforms were enforced within the Americas in 2018: in Argentina, México and Venezuela; so it feels like it is the perfect time for us to issue this update of the "Guide to VAT/GST/SUT in the Americas" and I trust that this book serves you well as a primary source of information on consumption taxes in the Americas and help us all have a reference point for keeping up to date.

PwC's Indirect Tax Network is a family of experts with presence in over 150 countries and over two and a half thousand indirect tax specialists. Our global network aims to make your business more efficient, profitable and competitive. We hope to help you make the right decisions for your business.

Joanna Bello

Global Indirect Taxes Network Leader
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Preface

In PwC, we have a genuine and strong commitment to provide our clients with thought leadership from a global and local perspective. We do believe that in order to achieve this, we must address the important tax developments occurring around the world in different countries and regions. The 2018 Guide to VAT/GST/SUT in the Americas is one of the answers from this commitment.

Since 2010, 21 of our PwC Firms in the Americas have delivered practical, yet very detailed information on indirect taxes to our clients interested in the region. The importance of this resides in the fact that the indirect taxes are becoming more and more a very relevant source of revenue for tax Authorities. In some cases, being even more relevant than direct taxes.

Moreover, many countries are amending their tax regulations regarding Value Added Tax, Goods and Services Tax, and Sales and Use Tax every single year. Having so many countries in The Americas, we believe it makes sense for PwC to present a single document that may streamline the general knowledge about indirect taxes in the region, and the specific changes made accordingly.

We planned this updated Guide to be specifically client focused, to respond to frequent questions we receive from our clients, but in a simple yet consistent and friendly format. In 2018, the VAT/GST/SUT systems of several countries have been reformed or updated.

Amongst the changes within this updated version, you will find that:

Argentina amended the VAT Law by including digital services provided by foreign or resident suppliers as services subject to VAT.

Ecuador reinstated the VAT rate from 14 to 12%.

Panama authorized a limited list of companies as a Pilot Plan to implement the use of electronic invoices.

Starting the fall of 2018, it is mandatory for Mexican taxpayers to issue the “payment receipt complement invoice” which essentially, has to be issued in case of collections in installments.

Venezuela amended the mechanism for the offer and purchase of foreign currency, which provides an auction based mechanism for the Complementary Floating Exchange Market System.

We have incorporated new Partners and Managers to our network, so please do not hesitate to contact us directly if you need a local helping hand or leadership contact.

We hope this Guide will be a valuable bridge to find answers to your questions and a way to solve your important issues in the region.

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Introduction

Generally speaking, VAT in the region operates in a similar way to the European Union's VAT regime. It is a turnover tax levied on the supply of goods and services when performed in a business environment, as well as on the importation of goods and services. VAT incurred on purchases or levied on importation can in principle be offset against the VAT due on sales. This credit/debit system has features within each country arising from specific needs and circumstances.

Most of the American countries have adopted a standard VAT system, with a single VAT law that is applicable across the country even where a country is a federal state. However, there are some exceptions such as Brazil, Bolivia and Costa Rica.

Understanding VAT in America

VAT is often seen by Multinational Companies as a cash flow issue which could in some cases represent a significant cost. In America, this could be the case of VAT incurred by foreign residents, as any of the countries included in this publication provides a refund mechanism for such purposes; or input VAT related to preoperative expenses which in some cases is not recoverable until the entity performs taxable activities; or even the administrative burden for the companies to fulfill the requirements established in the law and complementary legislations.

For the Tax Authorities, VAT is becoming an increasing focus area because of the simple and efficient tax collection and, as mentioned before, important source of revenue for different governments. Therefore, Tax Authorities are increasing and improving their audit procedures in order to reduce the risk of fraud and evasion.

Challenges in the years to come

With the economic competitiveness and the increasing reliance on VAT as the preferred option for taxation, American countries should design effective and efficient tax regimens to create a 'win-win' model for Governments, Businesses and Taxpayers.

A model where on one side, the Tax authorities maintain their revenues and increase the business attraction and employment; and on the other side, businesses keep a sustainable global profit and low risk to comply their tax burden. Both sides must count on the help of technology to reduce cost of collection. And last but not least, the Consumers, who are looking for employments and willing to contribute on an easy and fair tax regimen.

Another huge challenge will be to forecast whether or not the United States may implement the VAT, especially in these complex times, where new ideas, revenue and recession solutions must be in the agenda.

This Guide to VAT in the Americas may be a simple first approach to understand how each country uses the system, leverages the revenue and deals with domestic and international businesses. We hope that you will find, if not all, many of the answers to your questions about VAT in this complex and no less fascinating part of the world.

Note on terminology

In the main, we have adhered to generally accepted VAT English terminology. However, it should be considered that VAT/GST/SUT systems across the region and the respective terminology are not harmonized. Moreover, in most cases local legislation is not issued in English language. The following terms pose particular difficulties:

Supply of goods and services:

A supply of goods is generally understood as any transfer of the right to dispose of tangible or intangible property and a supply of services, as any transaction which does not constitute a supply of goods.

VAT legislation in the region rarely provides a definition of goods or services; therefore this is subject to local interpretation. Where such definition is provided, it has been included in the corresponding country chapter.

Importation:

Importation is generally understood as the introduction of tangible goods into a country. However, some countries provide a broader definition. Please refer to specific country chapters.

VAT withholding agent:

In many countries of Latin America, there are specific transactions where the liability for payment of VAT is shifted (partially or totally) from the supplier to the recipient of the goods or services. In these cases, instead of paying the corresponding VAT to the supplier, the recipient withholds the VAT and pays it to the Tax Authorities. Where this is applicable, the recipient is usually referred to as VAT withholding agent. These and other transactions where VAT withholding is applicable are described in the VAT Withholding Regimes section of each country chapter, where applicable.

12 Facts about Indirect Taxes in the Americas

	Argentina	Bolivia	Brazil	Canada	Chile	Colombia	Costa Rica	Dominican Republic	Ecuador	El Salvador	Guatemala	Honduras	Mexico	Nicaragua	Panama	Paraguay	Peru	Trinidad & Tobago	United States of America	Uruguay	Venezuela
VAT Groups (Consolidation)	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	N/A	No	No
Charging system	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Cash flow	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual	Accrual
Rate	21%	14.94%	Various	5%	19%	19%	13%	18%	12%	13%	12%	15%	16%	15%	7%	10%, 12.5%	18%	12.5%	4 to 7.5%	22%	12%
Increased Rate	27%	–	Various	13 to 15% HST	–	–	–	–	–	–	–	–	–	–	10 and 15%	–	–	–	–	–	27%
Reduced Rate	2.5%, 5% and 10.5%	–	Various	0% certain supplies	-	5 and 0%	5 and 10%	16%	0% certain supplies	–	–	–	–	7%	–	5%	–	0%	–	10%	8%
Registry for non-residents	No	No	No	Required under certain conditions	Yes	No	Yes	No	No	No	No	Yes	No	Yes	No	No	No	Yes	No	No	No
Electronic Invoicing	Mandatory	Permitted	Mandatory	Permitted	Mandatory	Permitted	Mandatory	No	Mandatory	Mandatory	Permitted	Permitted	Mandatory	Permitted	Permitted	To be implemented in 2019	Permitted	No	Permitted	Mandatory/ Permitted	Permitted
Tax Period	Monthly	Monthly	Monthly	Monthly Quarterly Yearly	Monthly	Bimonthly/ Every four months	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly, bimonthly	Monthly	Bimonthly/ Monthly	Vary among the states	Monthly Yearly	Monthly
VAT Recoverable	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes with exceptions	Yes	Yes	Yes	Yes	Yes
VAT recoverable for non-residents	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	No	No	No
Statute of Limitations	5	8	5	4	3 to 6	5	4 to 10	3	3	3	4	5	5	4	5	5	4 to 10	6	3 to 4	5 to 10	6
Withholding Regimes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes

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Argentina

1. Scope

Value Added Tax (VAT) is applicable at a federal level in Argentina. Therefore, the VAT rules are the same in all of the Argentine territory.

It is assessed on the sale and importation of goods (e.g. raw materials, produced, finished or partly finished merchandise) with few exemptions, on most services (such as construction, utilities, professional and personal services not derived from employment and rental of fixed assets).

The value added tax applies to:

- Sales of movable property within the territory of the country by a taxable person acting as such;
- The independent supplies of services within the country;
- The importation of movable property;
- The supplies of services abroad, when the effective use or enjoyment of the services takes place in Argentina and the user is a registered VAT taxable person (“import of services”).

As an exception, the VAT law establishes that the services provided in Argentina but actually used or exploited overseas are not deemed to take place in the Argentine territory. As a result, these services generically called “exportations of services” are not subject to this VAT.

The term “sale” of goods shall mean the transfer of the right to dispose of tangible property as owner, the transfer by a taxable person of goods forming part of its business assets for the private use of the owner of the enterprise, and the transfer of goods pursuant to a contract under which a commission is payable on purchase or sale, on its own name but on behalf of third persons. It should be pointed out that the last comprehensive tax reform introduced by Law 24,730 – published in the official gazette on December 29th, 2017

to be effective starting 2018 has amended the VAT Law by including digital services provided by a resident supplier, or by a foreign one as services subect to VAT as long as the effective use of such service occurs within the Argentine territory.

The VAT law presumes that digital services - rendered through the internet or any application, or adaptation of protocols, platforms, or technologies used by the internet or other equivalent network that are essentially automated and that requires minimum human intervention, are always rendered abroad. Regarding these digital services, the VAT Law sets forth that an effective usage or exploitation of such services in Argentina exists when (i) the IP address of the device used by the client, or country code of the sim card is in Argentina; or (ii) the client´s invoice address is in Argentina; or (iii) the client´s bank account is an Argentine one.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals and/or legal entities that perform business activities, as well as those persons that perform taxable transactions on a "regular basis". In other words, "Taxable Persons" means any person who:

- Regularly sells movable property;
- Independently supplies taxable services;
- Imports goods on his own behalf and on behalf of others;
- Contracts services abroad, for use or exploitation within the country, and is a registered VAT person.
- Were Construction firms which carried out the works directly or through third parties on one's own property, and on a profit-seeking basis or for the later total or partial sale of the real estate.
- Were lessors, in the case of leases which are assessed against.
- Were Joint ventures which falls within the scope of the previously situations.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Argentina.

3. Place of supply

3.1. Goods

The place of supply rule applies to the sale of movable and immovable goods. The place of supply is where the goods are physically located when ownership is transferred to the customer or purchaser.

3.2. Services

The place of supply of services is where the services are physically carried out for the consumer.

Services supplied by non-residents to residents liable for VAT are taxable when used and enjoyed within Argentina ("import of services"), where the recipient is liable for the corresponding VAT (through self-assessment).

4. Chargeable event, chargeability of tax

The chargeable event shall occur as follows:

4.1. Goods

When goods are invoiced, payments are made (totally or partially) or when goods are delivered to the purchaser, whichever occurs first.

When an advanced payment is made prior to the delivery of the goods in order to set the price, the tax shall be chargeable at the time of the payment on the amount received.

4.2. Services

When payments are made (totally or partially) or services are completed, whichever occurs first.Continuous use of goods is also taxable when payments become due.

The abovementioned tax reform specifies that the taxable moment for the performance of digital services is the moment in which the

performance is finished or by the time of the partial or total payment, the one that occurs sooner.

4.3. Imports

On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. With respect to the importation of goods, the chargeable event shall occur and the tax shall become chargeable at the time the goods enter a territory of the country.

5. Taxable Amount

5.1. General Rule

As general rule, the value of the supply is the consideration (price) agreed upon by the parties to the transaction. No transfer pricing rules apply on transactions entered into between economically related parties. The consideration agreed upon for the supply shall not be lower than fair market value, unless it is duly substantiated and based on specific situations.

Adjustments to the value of supplies are permitted due to bonuses, discounts and similar commercial reasons, provided certain conditions are met. These adjustments will take effect in the period in which they occur, if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

5.2. Goods

The taxable amount on the supply of goods is the net sales price including auxiliary services and excluding all taxes and VAT chargeable.

5.3. Services

The taxable amount is the total consideration payable to the person supplying the services.

5.4. Importation

The taxable base is the value used in the customs declaration in addition to duties, charges, compensation rights, interests and other importation expenses.

Where the value of the goods includes "services" or the "value of intangible goods", the taxable base will be determined according to the Custom Valuation Agreement of the WTO.

The VAT and excise duties are excluded from the taxable base.

5.5. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency by applying the exchange rate published in the official gazette corresponding to the date on which the supply took place.

5.6. Rounding Rules

There are no rounding provisions for calculating or reporting taxes.

6. Rates

6.1. Standard Rate

The standard VAT rate is 21%.

6.2. Increased Rate

An increased rate of 27% applies on certain transactions, such as (but not limited to):

- Telecommunications;
- Household gas;
- Running water;
- Sewerage; and
- Energy.

The above mentioned rate applies only if the services are not supplied to final consumers in family houses or homes.

6.3. Reduced Rate

A reduced rate of 10.5% will apply on certain transactions, such as (but not limited to):

- Construction of housing when designated as a family house or home (excludes construction on existing property which does not constitute work in progress);
- Interest and other costs on personal loans granted to final consumers by financial institutions under certain conditions (when the contributor is VAT registered);
- Sales and imports of living bovine animals, meat or edible spoils from bovine animals, fruits, pulse and vegetables;
- Supply of publicity and advertising in some specific cases;
- Any passenger transportation inside the country and when the distance does not exceed 100km;
- Medical assistance in some specific cases; and
- Some capital goods.
- The tax reform introduced a 10.5% tax rate for alive animals from rabbit keeping, poultry and porcine

6.4. Special Rate for newspapers and magazines

The sale and the definitive import of newspapers and magazines and regular publications, as well as the subscriptions to digital journals shall be subject to VAT at a 10.5% rate.

If the taxpayer's main activity is the editorial production, the sale of magazines and newspapers, and the subscription to digital journals shall be subject to the following VAT rates:

Invoicing amounts per year	Tax Rate
Up to AR$ 63,000,000	2.5%
AR$ 63, 000, 0000 – AR$ 126,000,000	5.0%
More than AR$ 126,000,000	10.5%

7. Exemptions

7.1. Exemption with no right to deduct input VAT

Exempted transactions include:

Sales (and transactions which involve the transfer of exempted goods) of the following goods:

- Books, leaflets and similar printings; ordinary natural water, common bread, milk, medicines, postage stamps valid for use in postal services, fiscal stamps and other similar stamps;
- Aircrafts used in commercial activities and for defense or internal safety, ships or boats acquired by the National Government.
- Betting, lottery tickets and other forms of duly authorized gambling.

Supplies of services:

- Services supplied by the Government (National, Provincial or Local) or by public institutions, school or university education provided by private institutions subject to public educational programs;
- Cultural services supplied by religious institutions;
- Hospital and medical care and closely related activities, the provision of medical care in the exercise of the medical and paramedical professions: The exemption is limited exclusively to the amounts to be paid to the suppliers of services, by the social welfare entities, set up or recognized by National or provincial legal rules.

  When these services are supplied by the cooperatives, mutual assistance entities and prepaid medicine systems shall enjoy the same exemptions when they correspond to services stemming from socials services.
- Transportation services for the sick or injured persons in vehicles specially designed for the purpose;
- Tickets for theatre, cinema, musical shows and sporting events, the production and distribution of motion picture films;
- Local transport of passengers (taxis, buses, and similar) up to lookm, international transportation;

- Transactions concerning deposit and current accounts in banking institutions under Law 21.526. Interest related to interbank loan.
- The considerations inherent to the positions of director, syndics and members of the council (directors' fees).
- The hire of real estate for housing purpose or in the case of rural properties. The rent for business purpose (except for conferences, meetings and parties) up to AR$ 1.500 monthly are also exempt (if exceed this cup the total amount will be subject to 21%).
- The work of transformation, modification, repair, maintenance and conservation of aircrafts registered abroad, when used in commercial activities, or for defense and internal safety.

Importations:

- Of goods qualifying for exemption from customs duties under special regimes for tourists, scientists and technicians, and diplomatic agents;
- Of goods qualifying for exemption from customs duties by religious institutions and other entities exempted from income tax, with the purpose of supplying non-profit medical care or carrying out scientific and technological research;
- Of samples and parcels exempted from customs duties;
- Of goods bestowed to National, Provincial or Local Governments;
- Of services supplied abroad, when the service is contracted by the National, Provincial or Local Government.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Exports of movable goods and services are zero-rated. Input VAT related to these transactions can either be used as a credit against output VAT or refunded pursuant to a special procedure (see "Exports VAT refund regime" section below).

Services supplied within the country shall be deemed exports if they are effectively applied or economically used outside the country.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met.

Input VAT must correspond to purchases that qualify as a deductible cost or expense for income tax purposes. Where input VAT relates to transactions within the scope of VAT as well as exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

Input VAT cannot be reclaimed on: acquisition of automobiles which are not considered merchandise; supplies of certain services such as the supplies of food and beverages in restaurants or cafes; services supplied by hotels, inns, camping sites; services supplied by gyms or swimming pools; and the acquisition of clothes which are not working clothes for employees.

The VAT law also establishes that services supplied abroad but used in Argentina ("importation of services") are subject to tax through a self-assessment mechanism, to the extent they are related to taxable activities. The corresponding tax, once paid to the tax authorities, can be accounted by the local subsidiary as a tax credit in the tax period immediately following to that in which the taxable event took place.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT just in case acting through a permanent establishment in Argentina or if they carry out VAT activities in Argentina through an establishment, other than a permanent establishment.

When services are rendered abroad by a non-resident but utilized in Argentina ("import of services") it would be subject to Value Added Tax through a self-assessment mechanism. In order to apply VAT to the import of services, each of the following elements must be considered:

- The service must have been rendered outside Argentina,
- The service must have been utilized within Argentina, and
- The local beneficiaries/users of the service must otherwise be registered for Argentine VAT

It is important to note that the party that bears VAT in these case is the Argentine user of the service, not the foreign services provider, and has to be paid within ten (10) days from the date in which the taxable event takes place.

9.2. Registration for taxable person not established in the country

Argentinean legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier of taxable transactions is the person responsible to charge and account for VAT, except when the supplier of services is a non-resident in which case, VAT is self-assessed by the local recipient.

Where a VAT withholding system applies, withholding agents must account for taxes withheld in their accounting records, file the corresponding withholding returns on a monthly basis and make payments to the Tax Authorities.

10.2. Registration

There is no specific registration for VAT purposes. There is a single registration process for all tax purposes, which is the Taxpayers Unique Code (Código Único de Identificación Tributaria - CUIT). There are no thresholds for tax registration, rather only a condition of qualifying as a person subject to taxes in Argentina. Tax registration is not required for non-residents unless they meet the requirements for any of the rules to be considered a resident in Argentina (i.e. establish a branch or permanent establishment).

The following persons are exempt from issuing invoices and from keeping accounting records of their transactions:

- Governmental entities;
- Associations and Foundations that are considered exempt for income tax purposes;
- Persons performing the functions of directors of joint-stock companies, receivers, partners, and managers of limited liability partnerships;
- Persons that supply their services on a dependent basis (e.g. employees); and
- Persons or businesses that perform supplies using ticket machines.

10.3. VAT Identification Number

The registry will assign a Taxpayer Registration Number (CUIT).

The Taxpayers Unique Code format in the case of entities is 30-XXXXXXXX-X. This consists of 11 digits, determined by a mathematical procedure.

10.4. Tax authority

The Federal Bureau of Public Income ("Administración Federal de Ingresos Públicos" -AFIP) is responsible for the administration of VAT.

AFIP is authorized to perform audits to ensure tax compliance, by reviewing the accounting records and tax returns of taxable persons. If assessments are issued as a result of said audits, AFIP is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the legislation governing the invoices requirements. The legislation provides the details of the format, dimension, expiration date and other mandatory requirements that invoices and receipts which must be met for tax purposes. Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes.

Invoices have to be categorized taking into account the tax status of the person receiving the invoice. For instance, where a supply is carried out with a tax registered person, the supplier's invoice must be identified with the letter "A", whereas a supply carried out with non-registered or exempt persons must be identified with the letter "B" on the supplier's invoice. Invoices related to exports must be identified with the letter "E".

Generally, an invoice or similar document should include the following information:

- Supplier business information: name, commercial address or domicile, VAT registration number, date of business commencement (this information must be preprinted on the invoice form);
- Tax status or type of taxpayer (general schemes, small business scheme, exempt, etc.) This information must be pre-printed on the invoice form;
- Printing company business information including authorization code and expiration date of the forms (this information must be pre-printed on the invoice form);
- Date of issuance;
- Purchaser's business information: name, commercial address or domicile, and VAT registration number;
- Description of sold goods or rendered services;
- Quantities and unit price, tax amounts, tax rates, and total invoiced;
- The VAT tax rate applied and the amount of it.
- The rate of any discount offered.
- If amount invoiced is expressed in a foreign currency, exchange rate used must be indicated;
- Other tax details (i.e., turnover tax and VAT withholding information).

This list is not exhaustive and may vary based on the taxpayer status.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

There are no specific provisions on this topic.

10.5.3. Electronic Invoicing

This regime is mandatory for all VAT registered responsible taxpayers since July 2015. Only very small taxpayers (registered in "Monotrobituo" special tax regime) and those using "fiscal controlling machines" for their transactions with final consumers would be exempted of using electronic invoicing.

Companies using e-invoicing systems will first need to validate their information with Tax Authority ("Afip") who will issue an electronic authorization (CAE - Codigo de Autorización Electrónica) for each invoice. This code must be requested by using a digital certification called fiscal key, through the website of Afip. The CAE proves that the authorization to issue the invoice is official (without the CAE

number applied to the invoice, it is not possible to release invoices to customers).

It should be noted that as of November 1st, 2016, the electronic invoicing regime is mandatory for taxpayers with transactions of less than ATR$ 500.000 (on a year basis). For purposes of computing the previously mentioned year-amount the following transactions shall be taken into account -on a net basis-: sale of movable property, performance of services, leasing of movable property, sale of inventory, and exports.

The CAE can be gathered in two ways:

- Normal (with the issuing of each invoice)
- Anticipated (CAEA). In this case, the company can ask for a certain number of CAE numbers according to its preference and this 15 days in advance. After this period, the company has to file a report on how many of those numbers were really used. In case the company needs more CAE numbers, it can request this to the AFIP again.

Once the AFIP assigned the CAE number to the invoice, the company must issue the electronic invoice within 10 days, by using the Electronic Invoice Program to generate the original electronic invoice.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records

Taxpayers have to use VAT Accounting Payable (Purchases) and Accounting Receivable (Sales) books. These books have to meet different formal requirements established by the Commerce Code, and must include the following information:

- Tax status of the supplier or customer (taxable, exempt);
- Date, numbering and type of the invoices;
- Information about the supplier or client;
- Amount of the transaction;
- Value of exempt transactions or transactions out of the scope of VAT;
- Value of withholdings, additional collection and payments in account for VAT.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Accounting records and supporting documents must be stored for at least 10 years for commerce and tax compliance from the end of the period to which they relate.

10.8.2. Format of Archiving

Accounting records and supporting documents must be archived physically. Electronic archiving of paper invoices is permitted for certain large taxpayers if authorized by the Tax Authorities.

Only when some conditions are met, the electronic archiving is obligatory. This are: i) The taxpayer is nominated as "VAT Collect Agent"; ii) The income has to exceed AR$ 20.000.000 (roughly USD 2.220.000 considering exchange rate 1US$ = 9 ARS) and the number of invoices issued has to be higher than 5.000 or AR$ 1.000.000 (roughly USD 111-000); III) When the taxpayer is incorporated in the "Information Regime" established by the Resolution AFIP-781. If the Taxpayer issues an electronic invoice through the Electronic Invoicing Regimen, their storage will be registered in the Tax Authority system.

The electronic archiving must be stored 200 km ahead from the physical storage place.

10.8.3. Place of Archiving

Accounting records must be kept at the company's domicile.

10.9. Supporting documentation

Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their

transactions. Otherwise, tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns

Persons subject to VAT must file monthly returns. VAT returns should be filed within the 20 calendar days following the end of the tax period to which it relates.

10.11. Due Date for payment of VAT

Any VAT due to the tax authorities should be paid when the monthly VAT return is filed.

10.12. Refunds of VAT

When the input credits exceed the output credits, the excess can be carried forward to subsequent tax periods as part of the credits for those periods until they are exhausted. The excess is not refunded to the business.

There is no refund mechanism for non-resident businesses.

10.12.1. Exports VAT refund regime

Exports are zero-rated. In addition, exporters may also compute a tax credit for VAT paid on raw materials and other purchases related to exports.

The tax credit related to exports is recoverable against output VAT. Where the taxpayer has no output VAT to offset, or when the deduction of the tax credit is only partially taken, the excess part of that credit not used will be reimbursable to the taxpayer, through a special VAT recovery regime.

Exporters must file an export return before the tax authorities, reporting the VAT credits related to their exports. This return must be filed on the tax period following to that on which the export took place, attaching a report certified by a public accountant.

The tax credit related to exports and other taxable activities can only be refunded in proportion to the exports, and can be fully refunded to a cap of 21% of the FOB value of the exported products.

There is no specific method stated in the legislation for allocating the tax credit related to exports, but taxpayers are able to use any methods of calculation that would be suitable to their business model. This calculation has to be approved by the tax authorities.

Finally, it is important to highlight that the tax authorities have to approve the tax credit to be refunded. If the exportations are related to triangulation transactions (the country of destiny of the goods is different to the country in which the foreign buyer is located) the reimbursement would be subject to a special and stricter audit from the Tax Authorities before its approval.

The tax reform issued by Law 27,430 sets forth that tax credits arising from the purchase, construction, manufacture or definitive import of fixed assets – but for automobiles – that, after six (6) consecutive taxable periods as from the one in which such credits were computed, shall be refunded to the liable party if a favorable balance resulted. When such assets were acquired through a leasing agreement (i.e rental agreement with a purchase option), the period that such amounts (monthly payment plus the option) can be computed for purposes of the refund, are the ones occurred after a six (6) taxable ones after the one in which the option is excersided, but for the cases in which the relevant agreement is deemed to be a purchase agreement for income tax purposes.

10.13. Additional Reporting (statements)

There are no additional reporting requirements in Argentina.

11. Auditing

11.1. Auditing

The tax authorities are entitled to audit taxpayers within the statute of limitations period. Audits consist of revising the calculation of any VAT substantial or formal requirement. Where any assessment is issued by the tax authorities, the taxpayer is entitled to either accept it or file a claim.

Assessments can be done under a real or estimated basis, depending on the specific case and the information that the taxpayers have on their transactions.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

There are many penalties derived from tax infractions, such as keeping incorrect records or where no records are kept at all.

The following are some of the penalties related to VAT:

- Failing to file the tax return: fines range between ARS 200 and ARS 400 (roughly USD 22 to USD 44, considering exchange rate 1US$ = 9 ARS);
- Underpaying taxes or reporting an overstated VAT receivable: the penalty may be 50% or 100% of unpaid taxes or incorrect tax credit;
- Tax avoidance: fines range between two and ten times the avoided tax;
- Certain tax infractions may be penalized by closing the business premises for three to ten days. In addition, fines ranging between ARS 300 - ARS 30,000 may be imposed (roughly USD 33 to USD 3.330);

Tax Penalty Amendments were introduced by the end of 2011, which became effective on January 6, 2012. The Criminal Tax Law now provides for up to nine years of imprisonment for tax and social security fraud and stipulates objective thresholds (a fixed amount of Argentinean pesos) for determining the amount of unpaid taxes that constitutes a criminal offense. Those amounts had become outdated because of inflationary pressures in Argentina since the devaluation of the peso in early 2002. Because of the outdated amounts, almost every tax dispute before the amendments triggered a criminal tax issue because the previous thresholds were too low.

The mentioned amendment quadruples the old thresholds —for example, increasing the amount that constitutes "simple evasion" from ARS 100,000 to ARS 400,000 (from approximately USD 11.100 to approximately USD 44.000), and the amount that constitutes "aggravated evasion" from ARS 1 million to ARS 4 million (from approximately USD 111.100 to approximately USD 444.400).

12.2. Interest on late payments.

Late payment of taxes is subject to a monthly 3% interest rate. Interest will start accruing on the day after the filing due date.

12.3. Joint Liability

Taxpayers are jointly liable for the tax liabilities that may derive in cases where they receive counterfeited or unauthorized invoices by their corresponding counterparties. In addition, any person that assists taxpayers on avoiding taxes will be held jointly liable.

In the case of VAT withholding, collection agents are liable with the taxpayer in connection to the amount of VAT that has to be withheld.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The tax authorities are entitled to audit and assess taxes, as well as impose penalties, for a five year period starting from 1 January of the tax year following the year in which the tax return was filed. Two additional years have been added to the standard status of limitation period due to special tax amnesties regime established in 2009 and 2013.

13.2. Recovery of VAT by the taxable person

Taxpayers have five years to claim any refund of tax overpayments. This period also starts running from 1 January of the tax year following from the year the tax becomes refundable or the overpayment is made.

As mentioned in section 10.12 above, VAT favorable balances are not refundable.

14. Rulings and Decisions

The Tax Authorities have established a binding consultation regime that applies subject to the fulfilment of certain requirements.

Tax authorities, Tax Courts or Judicial Court decisions on audits or claims are binding on the parties involved in each case.

There are other cases where decisions or rulings are used to determine the interpretation of certain rules or the law itself, which would be binding on all taxpayers. These decisions are set by the Supreme Court of Justice.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

There are no specific VAT anti-avoidance or fraud measures in Argentina.

16. Other Rules

16.1. VAT withholding regimes

VAT withholding regimes are tax collection mechanisms implemented by the Tax Authorities to enforce and shorten the time in which VAT is collected from certain taxpayers and specific economic sectors.

The withholding agents are responsible for applying the withholding regimes and submitting the tax collected to the tax authority through special returns.

Argentina has different tax withholding regimes with rates ranging from 6 to 21%. These withholding regimes apply to specific transactions. The tax authorities can also appoint taxable persons as withholding agents in specific economic sectors.

The most important withholding regimes in Argentina are:

- For transactions that allow the recovery of VAT receivables;
- Supplies of goods and services: 10.5%.
- Supplies subject to a reduced rate: 8.40%.
- Other services: 16.80%.
- Gas, telecommunications and utilities are subject to a withholding rate of 8% on the amount invoiced;
- Professional fees are subject to a withholding rate of 14% on the amount invoiced;
- Food coupons are subject to a withholding rate of 6% or 17% of the amount of the supply;
- Payments through credit cards are subject to a withholding rate of 6% on the amount being paid through this means;
- Similarly, there is another special collection mechanism of VAT under which the suppliers are required to charge an additional percentage of VAT on the invoice to clients. This special scheme applies to the supply or goods.
- Some examples of supplies that are subject to this special VAT collection mechanism are the following:
- The sale of movable goods and certain services with a rate of 5% of the consideration or price.
- Importation of goods with a rate of 10% of the consideration or the price.

Argentina

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Bolivia

1. Scope

Value Added Tax (VAT) was introduced in Bolivia in 1986 and applies nationwide. Bolivia does not have a federal system, which means that all the Bolivian territory is subject to the same rules (unless it is established otherwise by the Government).

The following transactions are subject to VAT:

- Supply of movable goods within Bolivian territory. This does not include the transfer of goods or sales that are a result of a company's reorganization process or if they are asset contributions to the company.
- Supply of services within Bolivian territory. This does not include interest generated on loans granted or deposits received by financial institutions. Any other supply of services provided by financial institutions paid by way of commissions, fees or any other kind of retribution are subject to VAT.
- Construction contracts;
- Final imports of goods into Bolivian territory; and,
- Financial leasing contracts with the option of purchase except for real estate.
- Supply of goods is understood as any transaction for consideration that entails the transfer of property, irrespective of its denomination, exchange of goods, payment with other goods different from money, expropriation, and similar transactions that pursue the same purpose. This definition includes the contribution of goods into construction contracts and supplies of services.

2. Taxable Persons

2.1. Definition

Taxable persons are those individuals or legal entities that perform any of the following activities:

- Dedicate on a regular basis to sell movable goods;
- Perform tasks or supplies of any kind of services;
- Rent of movable or immovable property;
- Final importation of goods on their own behalf;
- Sell movable goods on their own behalf or on behalf of a third party; and
- Financial leasing of movable goods. Note that interest associated with financial leasing of movable goods is out of the VAT scope for transactions carried out by financial institutions.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Bolivia.

3. Place of supply

Bolivia is governed by a territorial tax system in which only Bolivian sourced income is subject to income tax. This principle also applies for VAT; this means that VAT will be applicable provided that the activities subject to VAT are carried out within Bolivia.

3.1. Goods

The place of supply of goods is where the goods are located at the time of the transfer. Therefore, VAT only applies to supplies of goods located within the Bolivian territory.

3.2. Services

The place of supply of services is where the services are physically carried out either in favor of the consumer or the final user.

4. Chargeable event, chargeability of tax

4.1. Goods

At the delivery date or performance of an act that implies the effective transfer of goods for legal purposes.

Financial leasing contracts: At the due date of each installment and with the payment of the balance of the price when the purchase option is formalized.

4.2. Services

At the end of the execution of the service or when the payment of the services is received, totally or partially.

Construction contracts: At the reception of every construction certificate, or the reception of every payment.

4.3. Imports

At the moment of customs clearance.

5. Taxable Amount

5.1. General Rule

The flat sales price constitutes the taxable amount. This includes ancillary services and financial expenses linked to deferred payments, including those related to financial leasing. The flat sales price can be reduced by:

- Bonuses and discounts;
- Returnable packing value; or,
- Specific consumption taxes and special tax on hydrocarbons and derived products.

The tax is included itself within the flat sales price and is not shown separately in the invoice and/or tax voucher.

In case of imports, the taxable amount is the Customs value (CIF costs, insurance and freight) stated on the customs declaration accepted by the corresponding customs authorities, plus the amount of rights, customs fees, and any other expenditure necessary for customs

clearance. In case of importation of capital goods, all but 10% of VAT and custom duties can be deferred for a period of 36 months.

5.2. Exchange Rate Rules

As general rule, all invoices should include the price expressed in local currency (Bolivianos). If the taxable amount is expressed in a foreign currency it should be converted to local currency at the exchange rate published by the Central Bank of Bolivia applicable to the day on which the respective transaction takes place.

5.3. Rounding Rules

The VAT payable has to be rounded up or down depending on the case, so there are no decimals when the tax is reported.

6. Rates

6.1. Standard Rate

The nominal tax rate is 13% but as the tax is charged on the final invoice price -VAT inclusive - the effective rate is 14.94% (13%/87%). VAT must not be shown separately on invoices.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following are exempt of the VAT:

- Imports of goods by members of diplomatic bodies accredited in the country;
- Merchandise imported by travelers into Bolivia (Bona fide) with a maximum value of USD 1,000;
- Premiums and life insurance policies;
- Capital profits:
  - Generated by sales/purchases of stock and credit certificates.
  - From valuation processes determined the Pension, Values, and Insurances Regulatory Authorities.
  - Adjustments resulting from the application of generally accepted accounting principles on the subscribed values of shares registered in the stock exchange.
- Transfers of goods or assets subject to securitization processes in charge of the securitization associations, including the registration rates;
- Financial intermediation, insurance, pensions, and investments portfolio, transactions in the stock market, either sale or transfer;
- Financial leasing of utilized movable goods (i.e. capital assets) for small entrepreneurs. Note that this exemption is subject to further regulation.
- Every transaction with public bid values registered in the Stock Market Registry, made within Bolivia and which has effects in Bolivia;
- Tourist and lodging services by hotels to foreign tourists without a residence or address in the country;
- Artistic events organized by Bolivian artists in respect of national production, performance and broadcasting of theatre, dance, national music, painting, carving and films.
- International ground transportation services.
- The import of printed books, newspapers and magazines.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

This regime only applies to:

- Exports of goods.
- International ground transportation services are subject to the zero rate, these services are not considered exports and therefore no refund is granted on input VAT related to them.

- The sale of books of national and imported production, and official publications made by institutions of the Plurinational State of Bolivia, in printed version.

8. Deductions

8.1. VAT recovery

Input VAT paid can be offset against output VAT, provided that it relates to the furtherance of a taxable transaction and additional requirements are met. Input VAT originated at the start-up stage can also be recovered.

In every case, input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes, even when the taxpayer is not liable to income tax. When the input VAT relates to taxable transactions, exempt transactions, and/or transactions that are out of the scope of VAT, only a portion of the VAT can be recovered for which a pro-rata calculation is used.

Payments of purchases that generate input VAT are required to be supported with banking documentation that demonstrates the payment.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Although there are no specific rules regarding permanent establishment, if a taxable event is taking place within Bolivian territory, the Tax Authorities may assess the payment of the corresponding VAT.

9.2. Registration for taxable person not established in the country

The legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There is no simplification regime for VAT registration.

9.5. Alternative procedures for-non established taxable persons

The legislation does not provide any registration mechanism or procedure for non-established businesses.

9.6. Exemption from the requirement to register

There is no exemption from the requirement for tax registration.

9.7. Joint Liability

There is no joint liability for registration according to the VAT regulations in Bolivia.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is the person responsible to charge and account for VAT. This rule will not apply where the supplier of services is a non-resident.

10.2. Registration

There is no specific registration for VAT purposes. There is a single registration process for tax purposes, which is the Tax Identification Number ("Número de Identificación Tributaria" - NIT). There are no thresholds for tax registration, but the only condition is being regarded as a taxpayer in Bolivia for tax purposes.

Tax registration is not required for non-residents unless they meet the requirements for any of the rules to be considered a resident in Bolivia (i.e., establishment of a branch).

10.3. VAT Identification Number

Upon registration, the Tax Authorities will automatically grant a Tax Identification Number (NIT), being applicable for VAT purposes as well.

10.4. Tax authority

The Internal Tax Service ("Servicio de Impuestos Nacionales" - SIN) is the entity responsible for the administration of VAT.

SIN is entitled to perform audits to ensure tax compliance by reviewing the taxpayers accounting records and tax returns. If assessments are raised up as a result of an audit, SIN is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the Invoices Regulations. The Regulations provide the format, dimensions, expiration date and other information that invoices and receipts must meet for tax purposes. Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Tax rules allow taxpayers to take care of billing or outsourcing this work to third parties.

Nevertheless, in any case, the invoices have to be printed with the taxpayer's information.

10.5.3. Electronic Invoicing

Electronic invoicing is permitted in Bolivia. The taxpayers and others responsible third parties must connect their systems to the Tax Authorities' electronic systems to use these electronic invoices. These documents are thoroughly controlled by the Tax Authorities via specific control codes assigned by them.

In order to use electronic invoices, the taxpayers and others responsible third parties must be firstly registered in a special registry of the Tax Authorities.

10.6. Credit notes and debit notes

These documents must be approved by the Tax Authorities being used when taxpayers need to make adjustment to transactions already invoiced (e.g. returning of sold goods or cancellation of services). These documents can be only issued in transactions specifically ruled by the VAT legislation.

10.7. Books and Accounting Registers/Records

VAT taxpayers that issue invoices, tax notes or similar documents are obliged to have accounts receivable (purchase) and accounts payable (sales) registers, where every transaction supported in those documents are registered.

In addition, note that local transactions equal or higher than BOB 50,000 subject to VAT must also be documented with a document payment issued by a financial institution (e.g. check, deposit, credit card, etc.).

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Tax related documents have to be kept for a period equivalent to the statutory tolling period and can be extended for 2 additional years in case the taxpayer has not registered properly before the Bolivian tax authorities.

In June 2016, statutory tolling period has been modified from a gradual incremental basis (In 2016, a period of 8 years was in force) to a fix period of 8 ages.

10.8.2. Format of Archiving

There are no specific provisions on this topic.

10.8.3. Place of Archiving

Tax related documents should be archived and kept in the business domicile for tax purposes.

10.9. Supporting documentation

Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities may initiate additional assessments during tax audits.

10.10. Tax period and VAT returns

VAT returns need to be filed on a monthly basis, meaning that a taxpayer must file 12 VAT returns per year. VAT returns must be filed according to tax calendar pre-set and approved by the Tax Authorities. The calendar is set according to taxpayers' ID numbers.

The VAT return has to be filed on the assigned calendar date of the month following the tax period to which it relates. Large and special taxpayers file electronic returns through the tax authorities' website.

10.11 Due Date for payment of VAT

The payment should be done between the 13th and the 22nd day of month following the tax period is related to. The due dates are pre-determined according to the calendar as referred above.

10.12. Refunds of VAT

In the event that the input VAT exceeds the output VAT, the VAT credit balance can be carried forward to subsequent tax periods until the VAT credit is finally offset.

The remaining VAT credit balance is not refunded to the business unless a corporate restructuring process is carried out (e.g. a merger between two Bolivian companies).

Only input VAT related to exports is subject to refund. Refunds are supported by means of tax refund certificates (Certificados de devolución de impuestos - CEDEIM's for its acronym in Spanish). These are commercial documents that can be transferred through their endorsement at a discounted rate. These documents do not expire and can be used to pay any tax that is administrated by the Tax Authorities.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

There are no additional reporting requirements.

11. Auditing

11.1. Auditing

The Tax Authorities are entitled to audit taxpayers within the statute of limitations period. Audits consist of reviewing the calculation and compliance of VAT. Where the Tax Authorities raise any assessment, the taxpayer is entitled to either accept it or challenge it.

There is no specific schedule within the year to perform a tax audit and the Tax Authorities are entitled to review any of the open tax periods.

Audits are usually performed at the taxpayer's premises.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risk for non-compliance

12.1. Penalties

Penalties related to VAT compliance include:

- Penalty for failing to register for tax purposes: 2,500 UFV (roughly USD 800) and closing of the establishment. UFV (Unidad de Fomento de Vivienda) or Household Indexed Unit is a reference unit indexed to inflation used for adjustment purposes.
- Penalty for the failure in the issuance of valid invoices or any equivalent documents:

- When the offence is committed for the first time, immediate closing of the business for six days or a penalty equivalent to ten times the value of the transaction for which an invoice was not issued.

- In case of relapse, closing of the business from twelve to forty eight days.

12.2. Interest on late payments

Interest rate on late payments varies from 4 to 10% (4% from the day after the due date of the payment obligation until the last day of the fourth year, 6% from the first day of the fifth year until the last year of the seventh year and 10% from the first day of the eighth year until the date of payment).

12.3. Joint Liability

There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The tax authority is entitled to audit and assess tax liabilities according to the following:

As stated above, statutory tolling period has changed, in June 2016, from a gradual incremental basis (In 2016, a period of 8 years was in force) to a fix period of 8 ages.

In addition to the above, an additional 2 year period must be considered when taxpayers have failed to register or have registered incorrectly.

In any case, the statute of limitations should be calculated from 1st January of the year following to that on which the tax obligation arose.

13.2. Recovery of VAT by the taxable person

Taxpayers have a period of three years to reclaim refunds of overpaid VAT.

14. Rulings and Decisions

There are no case by case rulings for tax purposes in Bolivia. Taxpayers may access rulings on a specific topic, where a formal request is referred through banking, commerce or other representative institution.

Tax Authorities' decisions on audits or claims are not binding. Similarly, responses to any particular consultation submitted to the Tax Authorities are binding only for the party involved.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

There are no anti-avoidance measures to prevent fraudulent schemes.

16. Other Rules

16.1. VAT withholding regimes

There is no VAT withholding regime in Bolivia.

Bolivia

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Brazil

1. Scope

The Brazilian indirect taxes system is complex and has been subject to multiple changes along the past years. The text below contains very general information applicable to each of the taxes herein mentioned. Moreover, it is important to comment that the respective legislation includes various exceptions to the general stated rules. In the case of the State VAT (ICMS), although a federal law should be followed, each State issues its own legislation, which brings certain differences if compared to the federal law.

As a general rule, the Brazilian indirect taxes system comprises essentially three taxes: (i) Value Added Tax on Sales and certain Services (ICMS); (ii) the Excise Tax (IPI); and (iii) the Service Tax (ISS), which are State, Federal, and Municipal taxes, respectively.

In view of the similarities in certain cases regarding tax calculation and collection, we also consider as indirect taxes the federal taxes levied on gross revenues: the Contribution for Social Integration Program (PIS) and the Contribution for Social Security Financing (COFINS).

1.1 Value Added Tax on Sales and Services (ICMS)

The ICMS is a State tax levied on the circulation of products and rendering of certain services. ICMS is levied on the following transactions:

- Supply of goods and electric energy;
- Supply of certain services (intermunicipal and interstate transportation and telecommunication services); and
- Importation of the goods and services listed above.

The ICMS is a non-cumulative tax, which means it only applies over the aggregated value of each stage of the circulation chain. The taxpayer shall monthly calculate the difference between credits and debits arising from its transactions. In case debts exceed the credits, the taxpayer should collect the difference. Exports are not subject to ICMS.

The importation and intrastate transactions with goods are normally subject to ICMS at the rate of 18%. This rate may vary depending on the legislation of the State in which the transaction takes place.

1.2 Withthholding ICMS ("ICMS - ST")

In order to avoid illegal tax evasion, enhance the fiscal control process and allow previous tax collection, the legislation may appoint a single taxpayer of a product's chain as the sole liable party, who will collect the ICMS due by all parties until the final consumer.

1.3 Contribution for Social Integration Program (PIS) and Contribution for Social Security Financing (COFINS)

PIS and COFINS are monthly federal social contributions imposed on gross revenues. As per gross revenue is understood all of the company's income, regardless of its denomination or accounting classification.

As a general rule, entities which calculate the Corporate Income Taxes using the actual profit method are subject to PIS and the COFINS based on the non-cumulative method, where such contributions are calculated at 1.65% and 7.6% rates respectively. In this case, is allowed the offsetting of credits. As a general rule, PIS and COFINS tax credits can be recorded on costs and expenses used in the production process of goods and services, and are calculated based on the same 1.65% and 7.6% rates for PIS and COFINS, respectively.

Equal to ICMS, PIS and COFINS are not imposed on revenues arising from exports. The maintenance of credits arising from acquisition of inputs, among other situations set forth by law, is authorized, even in the cases where the Company performs exports.

Companies developing certain activities listed by law as well as entities opting for the Presumed Profit method in order to calculate its Corporate Income Taxes are subject to PIS and COFINS based on 0.65% and 3% rates, respectively. In this case, however, is not allowed the use of tax credits arising from the acquisition of inputs and other expenses related to the company's core activities.

Please note that imports of services and goods are also subject to PIS and COFINS taxation.

1.4 Excicise Tax ("IPI')

The excise tax is a federal non-cumulative tax levied on industrialized and imported products in accordance with the product's tariff code set by law. Similar to ICMS, PIS and COFINS, IPI is not imposed on exports. Tax rates vary in accordance with the nature of the product (following the constitutional principies ofessentiality and selectivity) and respective tariff code.

1.5 Municipal Service Tax - ("ISS")

The ISS is a municipal tax levied on the provision of services listed by Supplementary Law number 116/03 and subsequently changes.

ISS is imposed on a cumulative basis (it is not creditable) and the rates vary between 2% and 5%, depending on the law stipulated by the legislation of each Municipality and the nature of the service provided.

Imports of services are also subject to the ISS, to be collected by the Brazilian entity which is contracting the services from a supplier located abroad.

ISS is not imposed on exports of services. However if the result of a certain service is verified in Brazil, ISS is imposed, even if the payment for such service is made by a non-Brazilian resident.

2. Taxpayers

2.1. Definition

In summary, persons liable to the Brazilian indirect tax are individuals or entities that perform any of the activities that are within the scope of the ICMS, PIS, COFINS, IPI or ISS laws.

ICMS: The taxpayer is any corporate entity or individual that/who, either regularly or in a commercial volume, carries out inflows or outflows of goods or services subject to ICMS taxation, even if such transactions commenced overseas.

Furthermore, in specific cases designated by law, other parties may be responsible for the ICMS tax collection, such as the recipient of freight services provided by individuals, for example.

IPI: According to applicable law, the main IPI taxpayers are:

- The importers in respect of the taxable event arising from the customs clearance of imported products;
- The resellers of goods imported, even if the import was carried out by another establishment of the same Company;
- The industrial establishments in respect of the taxable event arising from the shipment of the product manufactured by the Company, even if the manufacturing process was carried out by another establishment of the same Company and/or the manufacturing process was carried out by another entity on a toll manufacturing transaction; and
- The establishments qualified as manufacturers, as per IPI tax law.

ISS: The taxpayer is the entity that provides the services provider set forth in the list of services provided by the law (Supplementary Law number 116/03). In some cases, the Municipal legislation may also attribute the ISS liability to a third party, generally the service acquirer.

PIS/COFINS: PIS and COFINS taxpayers are the legal entities that perform the sales of goods and services and therefore record revenues subject to PIS and COFINS taxation. PIS/COFINS taxpayers on imports are the importer of the goods or services.

2.2. VAT Grouping

There are no VAT Grouping provisions in Brazil.

3. Place of supply

For Indirect Taxes collection purposes, as a general rule, the establishment where the merchandise is located at the moment of the taxable event is deemed the place of supply.

ISS: For ISS purposes, the service is considered to be rendered (and the tax due) at the location of the rendering establishment except for certain services, such as construction, demolition, cleaning, gardening, and entertainment, among others, with regards to which the rendering is considered provided at the place where the services are executed.

ICMS: In relation to the services subject to ICMS, the following places are considered as locations of services:

- For transportation services: the place where service has initiated, as a general rule.
- For communication services: the location where the service of radio diffusion of sound and image. Such location is understood to be the place of the generation, emission, transmission, retransmission, replaying, amplification and reception, as well as other cases presented by law.

4. Chargeable event, chargeability of tax

The chargeable event of these taxes in Brazil occurs by the execution of any activity that is within those taxes scope, as previously mentioned.

4.1. Goods

In relation to taxes applicable on transactions with merchandise, the taxable event is given in the following circumstances:

ICMS: The ICMS taxable event occurs, among others, upon the outflow of merchandise from the taxpayer's establishment, even when addressed to another establishment of the same entity.

PIS and COFINS: The taxable event is the register of revenue arising from sales, regardless of their domination or accounting classification.

IPI: The taxable event occurs in domestic transactions involving industrialized goods. Such event is the outflow of products from entities considered as manufacturers for legal purposes.

4.2. Services

In relation to taxes applicable on service transactions, the taxable event occurs upon the following situations:

PIS and COFINS: The taxable event is the services providing, regardless of their denomination or accounting classification.

ICMS: the taxable event on services subject to the ICMS, as a general rule, occurs upon the beginning of the service rendering subject to the tax; and

ISS: The ISS taxable event is the rendering of any of the services mentioned in the list of services subjected to this tax, even if such services are not comprised within the core business of the provider.

4.3. Imports

The taxable event of indirect taxes applicable on imports occurs on the following situations:

ICMS: The ICMS taxable event occurs upon:

- Customs clearance of merchandise or goods imported from abroad;
- The receiving of services provided by non-Brazilian residents;

ISS: The tax is also applicable on services that are originated abroad or provided by non-Brazilian residents.

IPI: On import transactions, the taxable event occurs during the customs clearance of the imported products.

PIS-Import and COFINS-Import: The taxable event occurs upon:

- The custom clearance of the imported products;
- The payment, the credit, delivery, employment or remittance of amounts to parties residing or domiciled abroad as a payment for a service rendered.

5. Taxable Amount

5.1. General Rule

ICMS: The ICMS calculation basis varies according to the transaction (sales, transfers, etc.). As a general rule, the calculation basis is the value of the operation on the shipment of the respective merchandise including freight costs if charged separately by the remitting party. Morevore, IPI amount due when the transaction involves a product to be utilized or consumed or are fixed assets for the purchasing companycompany should also be considered and amounts charged for assembly and installation.

There are also some particularities on specific transactions:

a) Rendering of Services subject to the ICMS: On the rendering of interstate or intermunicipal transportation or communication services, the taxable amount is the price of the service;

b) Imports: The ICMS levied on import operations is calculated over the amount stated in the import documents, converted into Brazilian currency at the same foreign exchange rate used on the calculation of the Import Tax, plus the amount of the import tax, excise tax, and other customs expenses or taxes effectively paid (Supplementary Law 87/96, article 13, item V and article 14); and

c) Operations subject to the Withholding Tax (tax replacement, so called ICMS ST) System: For the operations subject to the withholding tax system, the ICMS tax base corresponds to the maximum or sole sales price used by the substituted taxpayer, established by the manufacturer, importer, or by the relevant authority. In the cases where such sales price is not established, tax authorities use to determine a presumed value added margin that is applied by the taxpayer to calculate the ICMS ST. The ICMS itself will always integrate the ICMS taxable amount. In other words, ICMS must be grossed up.

ISS: In general, the ISS tax base corresponds to the price of the service rendered. As a general rule, the ISS is applicable on the material used for the service providing activity. Exceptions apply in specific cases, such as the materials applied on construction services,

for example. Similar to ICMS, the ISS integrates the taxable amount (must be grossed up).

PIS and COFINS: For local market transactions subject to both cumulative and non-cumulative methods of PIS and COFINS taxation, the taxable amount corresponds to the entity's monthly revenue.

On import transactions, the PIS and COFINS taxable amount corresponds to: (i) on the entrance of foreign products in Brazil, the value that would be considered the Import Duty tax base, plus ICMS and PIS/COFINS itself (excluded the Import Tax); or (ii) on cases of payment, credit, delivery, employment, or remittance of values to foreign residents as retribution for service provision, the amount paid, credited, delivered, employed, or remitted abroad before income tax payment, plus ISS and PIS and COFINS themselves.

IPI: The IPI tax base varies according to operation implemented, as per the following rules:

i) Local market transactions: total transaction value, including legal add-backs and deductions.; ii) Imports: the value that would be used as tax base of custom taxes by occasion of custom clearance, or the total value of the sales operation from the establishment equivalent to an industrial establishment.

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published in the official press corresponding to the date on which the supply took place.

5.3. Rounding Rules

ICMS rounding rules vary on a state basis, while ISS rounding rules vary on a Municipal basis. There are no specific provisions for the federal taxes.

6. Rates

6.1. Standard Rate

ICMS: The importation and intrastate transactions with goods are normally subject to ICMS at the rate of 18%. This rate may vary (from 17 to 20%), depending on the legislation of the State in which the transaction takes place.

As a general rule, interstate rates are 4% for imported goods or goods which have an import content higher than 40%, and 7% or 12% for domestic goods or for goods which have an import content lower than 40%, depending on the case.

IPI: Tax rates vary in accordance with the nature of the product (following the constitutional principles of essentiality and selectivity) and respective tariff code.

ISS: The applicable rates are determined by each municipality varying from 2% up to the maximum of 5%. A proposal to change the Supplementary Law number 116/03 is currently being evaluated. Between the changes, there is the inclusion of a new article which prevents Municipalities of granting tax incentives which aim to reduce effective ISS tax burden to less than the 2% above mentioned.

PIS and COFINS: At non-cumulative tax system, PIS and COFINS are generally levied at the rate of 1.65% and 7.60%, respectively, with certain exceptions. Under cumulative system, the rates are 0.65% and 3%, respectively.

6.2. Increased Rate

ICMS: In regards to ICMS calculation, the application of increased rates varies according to the essentiality of the products and goods. In general, the highest ICMS rate levied on internal operations is 25%. However, certain States stipulate even higher rates for certain transactions.

IPI: Is calculated at rates that vary according to the degree of essentiality of the products.

ISS: Currently, ISS rates established by Municipalities cannot be higher than 5%.

PIS and COFINS: Operations related to items from certain products, such as certain personal hygiene products and medicines, among others, are subject to special PIS and COFINS calculation methods which provide the application of increased rates.

6.3. Reduced Rate

ICMS: The intrastate transactions with essential goods are subject to a 7% rate. Lower rates may be applicable under specific circumstances.

IPI: Considering that IPI is calculated at rates that vary according to the degree of essentiality, some products are taxed at a 0% rate.

ISS: Currently, ISS rates cannot be lower than 2%, as per Federal Constitution.

PIS and COFINS: Certain products expressly mentioned by the law are subject to a 0% PIS/Cofins rate.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

ICMS: No credits of ICMS can be appropriated on exempt or non-taxed purchases. Additionally, the taxpayer shall write-off the ICMS credit on acquisitions of taxed products or services that are used in manufacturing process on situations where the output of the resulting product is not taxed or is exempt from ICMS (please see additional comments on next subtopic). ICMS tax credits can not be recorded on consumption goods.

IPI: In general terms, IPI tax credits cannot be recorded on exempt, non-taxed or zero rated purchases, (please see additional comments on next subtopic). Sales benefited with IPI suspension, exemption, taxed at zero rate, or not subject to the IPI, as a general rule, do not prevent the seller from retaining the credits deriving from the purchase of taxed inputs.

PIS and COFINS: Cumulative system - Entities subject to the cumulative system are not allowed to record any kind of credit related to costs or expenses of the entities.

Sales with suspension, exemption, taxed at zero rate, or not subject to the PIS and COFINS taxation, as a general rule, do not prevent the seller from retaining the credits deriving from the purchase of taxed inputs.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

ICMS, IPI, PIS and COFINS: The above mentioned write-off will not take place on credits related to inputs applied into a manufacturing process of goods to be exported or, despite of the exemption, when the legislation expressly determines the credit maintenance. Legislation also provides for other specific circumstances where ICMS, IPI, PIS and COFINS tax credits may be kept by the taxpayer.

8. Deductions

8.1. VAT recovery

ICMS, IPI, PIS and COFINS: ICMS, IPI, PIS and COFINS are non-cumulative taxes, and as a result taxpayers are entitled to record credits related to the purchase of goods acquired to be resold for ICMS, PIS and COFINS and taxed inputs (including services) for ICMS, IPI, PIS and COFINS purposes. Hence, in accordance with the legislation, as a general rule, the taxpayer is allowed to offset the credits recorded on inflows of goods and services against the debts triggered subsequently. In order for such tax recovery to be in place, taxpayers shall perform the registry of debts and credits in its electronic systems that ultimately are converted into electronic tax files that shall be delivered to the tax authorities on a regular basis.

Since such taxes are computed on a monthly basis, in case the calculation results in a credit balance, it can be transferred to the subsequent period for offsetting purposes. If the calculation results in a negative difference, the taxpayer shall collect such amount to the tax authorities.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Based on applicable law, a foreign company may not initiate its regular activities in Brazil before accomplishing with all the legal requirements, which include the incorporation of a Brazilian legal entity.

9.2. Registration for taxable person not established in the country

There are no specific provisions on this topic.

9.3. Application Procedures

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification.

There are no specific provisions on this topic.

9.5. Alternative Procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemptions from requirements to Register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

Based on the current legal system, each legal entity is obliged to maintain and keep account of its corresponding tax documentation.

With respect to transactions subject to indirect taxes, all involved parties shall make the corresponding registries in its corresponding tax books.

10.2. Registration

Please refer to our comments below.

10.3. VAT Identification Number

The VAT and the CNPJ (federal taxpayer identification number) identification numbers are obtained upon the enrollment in the National Corporate Registry.

State Register: Individuals or entities intending to perform regular transactions subject to ICMS taxation shall be enrolled in the ICMS Taxpayers Registry, kept by the State Finance Secretariats. Once the enrollment is granted, a corresponding number is provided and shall be used for every tax document issued by the taxpayer. The lack of an ICMS State Registry Number does not permit the company from performing ICMS taxable transactions.

Municipal Taxpayers' Registry: Taxpayers subject to the ISS shall be enrolled with the Municipal Taxpayers' Registry.

10.4. Tax Authority

The administration and control of indirect taxes are under the jurisdiction of the following authorities, according to its corresponding sphere (Federal, State or Municipal):

IPI, PIS and COFINS (Federal Taxes): The Brazilian Federal Revenue Services - "Secretaria da Receita Federal do Brasil - RFB";

ICMS (State VAT): State Finance Secretariats - "Secretarias de Fazenda dos Estados - SEFAZ";

ISS (municipal tax): Municipal Finance Secretariats "Secretarias de Finanças dos Municípios".

10.5. Invoicing

10.5.1. Valid Invoice

Brazilian legislation requires specific models of tax documents to be issued, depending on the type of activities performed.

Invoices, as well as other commercial papers related to indirect taxes shall be maintained for a 5-year term (statute of limitation period for Brazilian indirect taxes).

The invoice's addressee is legally obliged to request a regular fiscal document containing all legal requirements.

Current legislation requires taxpayers also to keep record of input and output invoices in electronic files.

10.5.2. Issuance of a Valid Invoice - Outsourcing and Self-Billing

The fiscal document, which cannot be amended or contain erasures, shall be issued in any undeletable graphic mean.

10.5.3. Electronic Invoice

Started in 2005, a project for the implementation for digital bookkeeping containing other sub-projects, one of which, the electronic invoicing (NF-e), is now completed and normally operating in Brazil.

The NF-e project's main objective was to implement an authentic national fiscal document (invoice) model used in the replacement of paper invoicing, simplifying taxpayers' ancillary obligations. The authenticity of such document is granted by the sender's digital signature. Additionally, the electronic sending of such documents, allows tax authorities to perform real-time control of commercial transactions.

Electronic invoices shall be electronically signed in order for the documents' integrity to be guaranteed. Such electronic file corresponds to the NF-e and shall be transmitted via the internet to the taxpayers State Finance Secretariat (SEFAZ) prior to the outflow of goods.

The secretariat validates the file and return the taxpayer a reception protocol (Authorization for Use). Without such protocol the products' transit is not allowed.

An Auxiliary Document for the Electronic Invoice "DANFE" shall be printed and carried out with the products in transit in a single form (normal paper) containing the web NF-e consulting key and a bi dimensional bar code to help obtain data confirmation by tax authorities.

The DANFE is not an invoice nor does it replace such document. It is merely used as an ancillary document for NF-e consultation purposes as it contains the electronic invoice's access key which allows the confirmation of the NF-e's existence.

The addressee can register the information contained in the DANFE for bookkeeping purposes. Its validation, however, depends on the effective existence of a NF-e in the related tax administration files involved in the process. The issuing taxpayer shall perform its bookkeeping through both issued and received electronic invoices.

10.6. Credit and Debit Notes

Brazilian tax legislation only allows the following documents to be used for correcting information included on tax documentation:

10.6.1. Correction Letter

The Correction Letter is an instrument that may be used to correct any errors made when the invoice or tax document was issued, as long as the errors do not relate to specific circumstances determined by the Law (i.e., changing the tax amount disclosed).

10.6.2. Supplementary Invoice

The Supplementary Invoice is issued under the same requirements provided for in the legislation for the issuance of tax documents. It may be issued to correct price adjustments due to price differences or to complement the tax due.

10.6.3. Credit and Debit Notes

Credit and debit notes are used when the original tax documents indicate a quantity of goods that are higher or lower than the amount effectively sent. However, despite their frequent acceptance in commercial practices, they are not tax documents provided for in the Brazilian legislation, and its inclusion in tax books is prohibited.

10.7. Books and Accounting Registers/Record

ICMS and IPI: The Brazilian legislation sets forth a diverse list of ancillary and bookkeeping obligations to be followed by taxpayers. For the compliance of such obligations, each establishment (headquarter, branch, agency, warehouse or any other) shall keep its own set of documents. Digital Bookkeeping ("Escrituração Fiscal Digital") is a subproject within the Public Digital Bookkeeping

System “Sistema Público de Escrituração Digital” or “SPED” and consists of a digital application of Inflow and Outflow Registries, inventories, ICMS and IPI tax credits and computations

ISS: ISS taxpayers shall keep the legally provided fiscal books in each of their establishments. The bookkeeping of such books can be either manual or electronically processed, depending on the regulations of the municipality where the taxpayer is located. In replacement of some bookkeeping forms, some municipalities have put in place electronic reporting systems.

PIS and COFINS: Among the ancillary obligations related to the PIS and COFINS, we stress the EFD PIS/COFINS, a comprehensive electronic file comprising information regarding all PIS and COFINS debts and credits recorded by the taxpayer, further detailed in this section, and the Federal Taxes’ Debt and Credit Return (“DCTF” or “Declaração de Debitos e Creditos de Tributos Federais”), which main purpose is to provide information related to the debt of Federal Taxes and Contributions and their respective credits, such as payments, installments or offsetting.

10.8. Retention of and access to: books, registers, records, and invoices

10.8.1. Retention period

Mandatory corporate and fiscal books as well as the receipts for the recorded information shall be kept until the statute of limitation period for Brazilian indirect taxes, which corresponds to 5 years.

10.8.2 Format of Archiving

Bookkeeping related to the indirect taxes books, shall be made in the terms and forms set by the law.

10.8.3. Place of Archiving

In view of the autonomy granted to each corporate establishment (branch, agency, warehouse, etc.) the storage of fiscal documents shall be individually kept in each of them.

10.9. Supporting Documentation

The taxpayers are obligated to keep the necessary information and documentation in order to prove the nature and legitimacy of the performed transactions until the term set by the Brazilian statute of limitation period (5 years).

10.10. Tax period and VAT Returns

The ICMS, IPI, PIS, COFINS and ISS calculation is, as a general rule, performed on a monthly basis. However, the payment term can vary in accordance with the type of activity performed by the taxpayers and in view of each tax legislation, taking into account that ICMS and ISS are State and Municipal taxes, respectively.

10.11. Due Date for payment of VAT

ICMS: ICMS collection term for the ICMS may vary in view of the type of activity performed by the taxpayer, which may vary on a State level.

IPI: IPI collection shall be carried out, as a rule, by the last business day of the subsequent twentieth fifth day period to the month of the taxable event.

PIS and COFINS: Such contributions, as a rule, shall be collected, in case of financial institutions, by the twentieth day of the subsequent month to that of the taxable event and in all other cases, by the twentieth fifth day of the same term.

The payments regarding withheld PIS and COFINS amounts shall be made by the last business day of the week subsequent to the fifteen-day term in which the payment for services has been performed.

ISS: The ISS collection terms vary according to the legislation applicable to the Municipality where the tax is due.

10.12. Refunds of VAT

ICMS: Taxpayers are allowed to offset tax amounts that were unduly paid or paid in a higher amount, in specific situations, set forth by the law.

IPI: In the case of IPI overpayment, taxpayers may use the amount to offset tax payments from the same entity, due in subsequent periods

The offsetting of IPI credit balance can also be carried out in relation to other Federal taxes.

PIS and COFINS: PIS and COIFNS overpaid can be offset against other Federal taxes.

Please note that the refund of federal taxes in cash is foreseen by applicable law in certain circumstances, although it may take a long administrative proceeding until its final concession, which in many cases demands the taxpayer to file a lawsuit.

11. Auditing

11.1. Auditing

Administrative authorities, assessments and general rules related to the fiscal control of taxes are set by a Federal Law (the National Tax Code - "CTN") which provides the main directions to be followed in relation to taxes in general. Tax assessments can be executed towards any individual or entity, including those benefited by any form of tax exemption or immunity.

When issuing a tax assessment, tax authorities can request, through a written notification, information of the assessed entity in relation to: its business or activities (including with respect to third parties), corporate books, products, files, documents, papers. In addition, no other legislation may limit such rights granted to the tax authorities.

The mandatory bookkeeping documents and related receipts shall be kept for at least five years, the statute of limitation period for Brazilian indirect taxes.

The administrative authority presiding or conducting diligences regarding tax assessments shall register the documents made necessary in order to begin the evaluation period, as provided by law.

Notwithstanding criminal legislation, the disclosure of information by public Finance Authorities regarding the financial condition of the assessed party or related third parties is strictly forbidden. However, exceptions are made for legal proceeding or administrative purposes.

Federal and State Public Finance Secretariats shall provide each other mutual assistance for the assessment concerning each entity's respective taxes. Moreover, the Federal entity may exchange information with international entities with the purpose of executing due tax collection.

11.2. E-Auditing

In order to increase the capacity of fiscal authorities before the technological resources, among other objectives, the Brazilian government established the Digital Bookkeeping Public System - SPED.

SPED comes from an integrated initiative of the tax administrations of the three governmental spheres (Federal, State and Municipal).

SPED consists in an important improvement of the system used for the accomplishment of the tax and accounting ancillary obligations to be complied by Brazilian taxpayers. After SPED, such accomplishment was converted into a digital format. Its remittance to the tax authorities, using the digital certification for the purpose of signing electronic documents guaranteed its legal validity.

Between some of the main objectives of SPED, we highlight:

- Aims the consolidation of the receipt, validation, storage and authentication of corporate commercial and tax records and documents through a web based single information flow;
- Integrated initiative of the tax administrations of the three governmental spheres (Federal, State and Municipal), together with the private initiative;
- Was established in order to increase the auditing capacity of tax authorities through the use of technological resources, among other objectives;
- Helps expediting the identification of mistakes and tax offenses through a comprehensive analysis and by comparing the tax returns to the information submitted by the taxpayers;
- Aims to mitigate frauds, inconsistencies and tax evasion;
- Requires mandatory and periodical remittance of digital files to the tax authorities; and

- Uses a digital certification for the purpose of signing electronic documents, granting guarantee regarding the validity of the files.

Although SPED seeks (in the future) for the substitution of all current ancillary obligations, envisaging the accomplishment of them by digital systems based on predetermined layouts, and permitting the cross checking of all information, today SPED is composed by subprojects which involve:

i) Electronic Invoice ("NF-e"): consists of the electronically issued and stored invoices in place as a replacement of invoices previously issued in paper to document transactions subjected to the ICMS and/or to the IPI;

ii) Electronic Bill of Lading (CT-e): consists of a digital document issued and stored electronically in order to document the provision of transportation services. Works as a replacement of freight services invoices previously issued in paper format;

iii) National Electronic Invoice of Services (NFS-e): the SPED project comprises a national model of NFS-e to be issued, in the future, for all the taxpayers that provides services subjected to the municipal tax on services (ISS). Such project is being developed in an integrated manner by the federal tax authorities and the Brazilian Association of Municipal Secretaries of Finance (ABRASF). Currently, the usage of the national NFS-e is not mandatory;

iv) Digital Fiscal Bookkeeping for ICMS, IPI, PIS and COFINS purposes (EFD - ICMS/IPI/PIS/COFINS): EFD ICMS/IPI/PIS/COFINS consists in a digital file generated based on a specific layout set by Law, sent monthly by the taxpayers to the tax authorities through the internet, which encompasses comprehensive tax information of interest to States and Federal tax authorities, as well as the registration of inventory, fiscal documents regarding inflow and outflow transactions and calculations of the ICMS, ICMS/ST, IPI, PIS and COFINS.

The corresponding digital files shall be electronically signed and stored by the statute of limitation period established by Law (5 years for Brazilian indirect taxes).

Between different electronic reporting requirements in place, SPED currently plays the most important, costly and hardworking task, being composed by different blocks, as follows:

Digital Accounting Bookkeeping (ECD): the Digital Accounting Bookkeeping was created for accounting and social security purposes and consists in the digital version of the company's Journal and Ledger as well as auxiliary books. The generated files shall be based on a pre-set layout and electronically remitted to the tax authorities. The content of the ECD files are shared among the users of the SPED - tax authorities and public bodies, on the limits of their competence (kept the company's fiscal and banking seal trade).

12. Penalties and risks for non-compliance

12.1. Penalties

The delay or non-compliance with the main tax-related obligations (tax collection) and/or indirect tax ancillary obligations shall result in the application of fines or other legally previously set penalties, e.g. the revoking of special programs granted to the taxpayers.

12.2. Interest on late payments

ICMS: The fiscal ICMS debit is subject to interest rates which are applicable as of the legally provided dates regarding each situation. The interest rates vary on a State level.

IPI, PIS and COFINS: In relation to the federal taxes, interest rates are based on the monthly accumulated SELIC rate, published by the government authorities, and imposed from the date the tax collection is due.

ISS: ISS interests rates will vary according to specific Municipal legislation.

12.3. Joint Liability

In accordance to the Tax Code, in cases where tax authorities are unable to demand the compliance of tax obligations from the taxpayers, related parties, listed by the law may be jointly responsible.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The tax authorities may generally audit taxpayers up to five years after the chargeable event.

13.2. Recovery of VAT by the taxable person

A taxpayer must file for a refund within five years from time the return was filed. As a general rule, a refund in cash is a time consuming process in Brazil, so taxpayers generally apply for offsetting tax credits against other tax debts when it comes for Federal Taxes. With regards to ICMS, most efficient ways to use tax credits involve the transfer to suppliers, after an authorization process from the tax authorities.

14. Supplementary Lay 160/2017

The so called Tax War among States which has granted fiscal and financial incentives for companies in order to attract new investments in its territory is a hot tax topic in Brazil.

As foreseen in the Fedaral Constitution of Brazil, all fiscal benefits related to the State-Value Added Tax (ICMS) and granted by the states must be validated and aknowledge by the other states. Such requirement seeks to bring equality of fiscal treatment for taxpayers in the Brazilian jurisdiction.

Based on that, the Supplementary Lay 160/17 was enacted to regulate the fiscal incentives granted by the states without the accordance of the National Council of Financial Policy (CONFAZ).

The referred law brought some obligations to the states regarding the fiscal benefits granted for taxpayers in each territory with the objective of validating past and future fiscal incentives.

All states in Brazil are now obliged to publicate the integrity of their fiscal benefits currently granted so that can they be validated by the National Council of Financial Policy (CONFAZ).

The supplementary law specifies how this validation will take place and exposes the requirements to be followed by the states.

In this scenario there has been a lot of particularities to be analysed by the taxpayers as it directly influences on its operations and tax calculation.

15. Software taxation

As described above the State-Value Added Tax (ICMS) is due on the circulation of goods and some services. With that in mind the taxation to be applied on operations with softwares sold trough direct purchase or through electronic transfer of data became a area of several discussions.

The main discussion revolves itself around the nature of wheter the softwares are characterized as a “service” and subjected to the Service Tax (ISS) or wheter as a “merchandise” subjected to the State-Vallue Added Tax (ICMS). Due to this debate conflicts have arisen between the state and the municipal tax autorithies.

In the measure that these goods are commercialized they are subjected to the State-Value Added Tax (ICMS) if considered as merchandise. On the opposite position the Service Tax is due on the licence of software and other services performed.

With the constant evolution of technology and the increase of operations made trough the internet, the National Council of Financial Policy (CONFAZ) enacted the ICMS Agreement 106/2017 which stated that in domestic and import transactions of digital goods such as softwares, programs, electronic games or applications through electronic transfer of data the ICMS should be paid to the state where the acquirer is located.

Such Agreement also states that companies not located in Brazil that sell these products through electronic transfer of data are now obliged to be registered as taxpayers and if not established, the responsibility of the payment of the due taxes will be transferred to related Brazilian third parties.

The states are issuing normative acts to incorporate such terms and now are starting to charge the ICMS on such operations, however the municipalities are also charging the ISS over this transactions.

Several injunctions were filled to avoid the incidence of the ICMS on these operations as the ICMS Agreement overstepped its legal capability of regulating tax rules.

Based on that, there are some key points to be analysed by companies in such transactions to avoid a possible double taxation (ICMS and ISS).

16. Calculation of PIS/COFINS tax basis

As per mentioned in our comments towards indirect taxation in Brazil, PIS and COFINS are non-cumulative contributions (if applying the real profit calculation systematic for Corporate Taxes) that compose their own basis.

There was a relevant discussion about whether the State-Value Added Tax (ICMS) should compose the tax basis of the PIS/COFINS as that tax do not compose the concept of effective revenue foreseen in the legislation.

As the ICMS is a tax due on the circulation of goods and that in the systematic of debit-credit the final tax burden will always be paid by the final consumer this taxes only transitate through the accounting of the establishment and does not compose the real revenue of the company.

Many contributors filled lawsuits to discuss this matter several years ago questioning this procedure. In this regard, the Supreme Federal Court (STF) stated on the Extraordinary Appeal n. 574.706 that the ICMS should not compose the PIS/COFINS tax basis based on this premises described above.

17. Inputs definition for PIS/COFINS purposes

In the past years the Superior Courts of Justice in Brazil issued decisions altering the understanding towards the concept of inputs for PIS/COFINS purposes.

As previously described above, PIS/COFINS are contributions that levy over the gross revenues of companies. As a non-cumulative tax, the calculation of the amount to me paid is made trough a debit-credit systematic.

The laws that regulates these taxes exposes a restrictive concept for the inputs that are eligible for credit on the non-cumulative system.

Several contributors filled lawsuits in order to contest the restrictive concept of inputs applied by the tax autorithies.

The Superior Court of Justice (STJ) issued a decision on the Special Appeal n. 1.221.170 stating that from a credit perspective all inputs that are pertinent and essential for the execution of the stablishment activities are eligible for credit.

Based on this decision there are a lot of points to be discussed and analysed by the contributor as the concept of input now has a wider coverage and opens the possibility for extemporaneous credits of PIS/COFINS.

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Canada

1. Scope

GST/HST is a federal value-added tax that is charged on the supply of most property (including sales or rentals of tangible goods as well as intangible and real property) and services made in Canada.

The Goods and Services Tax ("GST") was implemented on January 1, 1991 and is levied in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba and Québec as well as the territories of Yukon, Northwest Territories and Nunavut.

The Harmonized Sales Tax ("HST") is a value-added tax that replaced the provincial retail sales tax and the GST in certain "participating provinces". HST was first implemented on April 1, 1997 in the provinces of Nova Scotia, New Brunswick, along with Newfoundland and Labrador, and was further implemented in the provinces of Ontario and Prince Edward Island on July 1, 2010 and April 1, 2013 respectively.

The HST applies to the same tax base, under the same rules, as the GST. There is no need to register separately for GST and HST because both taxes are accounted for under one tax return, and are jointly administered by the Canada Revenue Agency (CRA).

In addition to the federal GST, the provinces of British Columbia, Saskatchewan and Manitoba impose a provincial sales tax ("PST") on the retail sale of taxable goods, software and certain services.

The province of Quebec levies a provincial value-added tax (referred to as Québec Sales Tax ("QST")). The QST is charged on the supply of most property (real, tangible and intangible) and services made in the province of Québec. Although the QST is a separate tax regime, the QST rules are largely modelled after (and effectively harmonized with) the GST/HST.

2. Taxable Persons

2.1. Definition

For GST/HST, a taxable person is generally any person (including individuals, partnerships, corporations, trusts and organizations of any other kind) who makes a taxable supply in Canada in the course of a commercial activity carried on in Canada.

Similar to GST/HST, any person who makes taxable supplies in Quebec in the course of a commercial activity carried on in the province is generally a taxable person for QST.

The term commercial activity refers to: i) taxable supplies made in the course of either a business carried on or "an adventure or concern in the nature of trade"; and ii) taxable supplies of real property. Individuals, personal trusts, and partnerships consisting of individuals are deemed not to carry on a commercial activity unless it is engaged in for profit.

For PST, a taxable person is generally any person who sells, leases, or provides taxable goods and services at a retail sale or offers to do so within the province in the course of business or continuous acts.

Purchasers who do not pay PST (and in some cases, GST/HST and QST) to a vendor upon the acquisition of taxable goods, services, software and other property for their own consumption or use are required to self-assess and remit the tax directly to the tax authority.

2.2. VAT Grouping (VAT consolidation regime)

Although there are no GST/HST grouping provisions in Canada, a corporation can reduce or offset net tax payable by the amount of any refund or rebate that a closely related corporation is entitled to if certain conditions are met. The same rule is in place for QST but not for PST.

3. Place of supply

3.1. Goods

A sale of goods is deemed to be made in the place where the property is delivered or made available to the purchaser. Any other supply of goods, such as a lease, is deemed to be made in Canada where possession or use of the goods is given to the recipient in Canada.

3.2. Services

service is generally deemed to be supplied in Canada if the service is performed in whole or in part in Canada. It is deemed to be supplied outside Canada if it is performed wholly outside Canada.

Additional place of supply rules determine if a service is made in a province where HST is charged and thereby subject to HST instead of GST.

Services in relation to real property follow the same rule as a supply of real property described in section 3.4 below.

Special rules apply to the supply of a telecommunications service.

3.3. Intangible Property

A supply of intangible personal property is deemed to be made in Canada if the property may be used in whole or in part in Canada. As with services, there are also special rules that apply to determine whether the supply is made in a province where HST is levied and if the supply is subject to HST instead of GST.

3.4. Real Property

A supply of real property is deemed to be made in Canada if the property is situated in Canada. The rate of GST/HST exigible on taxable real property is based on the province where the property is located.

3.5. Supplies by Non-residents

Supplies by non-residents who are not registered and do not carry on business in Canada are not subject to tax

4. Chargeable event, chargeability of tax

4.1. Goods

The recipient of a taxable supply is generally required to pay tax at the time the consideration for the supply is paid to the supplier or the time the consideration becomes due, whichever is earlier. Where a supply involves partial payments, tax must be paid on each payment as it is paid or falls due. For purposes of determining when tax is payable, the legislation deems an amount to become due when it is invoiced.

4.2. Services

The rules noted above for the supply of goods, also apply to the supply of services.

4.3. Imports

Goods imported into Canada for domestic consumption are subject to GST, which is calculated on the value for duty of the goods at the time of importation. HST may apply instead of GST where noncommercial goods are imported into a participating province. (PST or QST may also apply in addition to GST if such goods are imported into the provinces of British Columbia, Saskatchewan, Manitoba or Quebec.) Taxes payable upon the importation of goods into Canada are collected by the Canada Border Services Agency (CBSA)

Importers of taxable services and intangible property are required to self-assess and pay GST (as well as QST for consumption or use in Quebec, or HST for consumption or use in a participating province) unless these supplies are imported for use exclusively (90% or more) in a commercial activity.

Importers of taxable goods and taxable services for use or consumption in British Columbia, Saskatchewan or Manitoba must also self-assess and pay PST if the tax was not paid to the supplier or upon importation into the province.

5. Taxable Amount

5.1 General Rule

Tax is calculated on the value of consideration for a supply. Consideration can be regarded as the price paid or payable for the goods or services supplied and can include any act of the purchaser from which the supplier derives a benefit or advantage as well as any promise of the purchaser to perform such an act.

The legislation provides that the value of non-monetary consideration is its fair market value at the time the supply is made.

5.2. Exchange Rate Rules

Foreign currency is to be converted to Canadian currency using:

- The source used for actual conversion;
- The source the taxpayer typically uses for actual conversions;
- A Canadian chartered bank;
- The Bank of Canada; or
- The rate provided by the CBSA for purposes of converting the value for duty of imported goods.

When a source other than the source used for an actual transaction is selected, that source must be used consistently and for a reasonable period of time (such as one year). The methodology used could have to be approved by tax authorities.

5.3. Rounding Rules

Where the calculated tax payable is an amount that includes a fraction of a cent, the fraction is deemed to be one cent if it is equal to or greater than half a cent and is disregarded if it is less than half a cent. In other words, the amount of tax payable that is a fraction of a cent is rounded to the nearest whole cent.

6. Rates

6.1. Standard Rate

GST applies at the rate of 5% for supplies made in Canada, with the exception of supplies made in a HST province where HST is levied.

QST applies at the rate of 9.975% to taxable supplies made in the province of Quebec (in addition to the GST).

PST is levied in the provinces of British Columbia, Saskatchewan and Manitoba at the rates of 7%, 6% and 8% respectively on the sale or provision of taxable goods and services (in addition to the GST).

6.2. Increased Rate

HST rates for supplies that are made in participating provinces:

- Ontario: 13%
- Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland: 15%

6.3. Reduced Rate

Certain supplies are subject to GST/HST (and QST) at the rate of 0%. (See Section 7.2 "zero-rated" supplies below).

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following supplies are exempt of GST/HST (and QST):

- Used residential real property;
- Most health care services;
- Educational services;
- Child and personal care services;
- Legal aid services;
- Some supplies by charities and other public sector bodies;
- Most financial services; as well as
- Ferry, road, and bridge tolls.

The sale of otherwise taxable goods and services for resale to others (i.e., to wholesalers and other resellers) is normally exempt from PST. As well, British Columbia, Manitoba and Saskatchewan each provide for certain exemptions of goods/services from PST.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Zero-rated supplies for GST/HST (and QST) purposes include:

- Prescription drugs and biologicals;
- Medical and assistive devices;
- Feminine hygiene products;
- Basic groceries;
- Certain agriculture and fishing equipment/supplies as well as animals, fish and plants for human consumption as food;
- Exports, including exported financial services supplied by a financial institution;
- Non-taxable portion of tour packages;
- Most international passenger or freight transportation;
- Property and services supplied to an international authority for use in construction of a bridge or tunnel that crosses the Canada/U.S. border; and
- Collection of customs duties by Canada Post Corporation.

8. Deductions

8.1. VAT recovery

A registrant who acquires or imports property or a service for consumption, use, or supply in commercial activities of the registrant may claim input tax credits to recover all or part of the tax the registrant paid on the acquisition or importation of the property or service.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-residents who make taxable supplies of property or services in the course of carrying on business or via a permanent establishment in Canada are required to register for GST/HST and to charge, collect and remit tax in the normal manner.

Out-of-province persons who make taxable supplies of property or services in the course of carrying on business or via a permanent establishment in the province of Quebec are required to register for QST. Canadian residents who do not otherwise carry on business in Quebec are also required to register for QST if they solicit orders from consumers in Quebec for the sale of tangible goods and deliver the goods sold to locations in the province.

Out-of-province persons are generally required to register for PST if they make retail sales of taxable goods and/or taxable services in a province. Out-of province suppliers of taxable goods are also required to register if they either hold an inventory of goods available for sale in that province or do all of the following:

- Solicit business from customers within a province via advertising or any other means;
- Accept purchase orders that originate from a location within that province; and
- Cause goods sold to be delivered to a location in that province.

9.2. Registration for taxable person not established in the country

Voluntary registration may be permitted if the non-resident regularly solicits orders for the supply of tangible personal property for export to, or delivery in, Canada in the ordinary course of carrying on a business outside Canada.

Voluntary registration may also be available to non-residents who have entered into an agreement to supply services to be performed in Canada or intangible property to be used in Canada or that is related to either i) real or tangible property ordinarily situated in Canada; or ii) services to be performed in Canada.

9.3. Application Procedure

Persons located outside of Quebec who are required to register or who wish to register voluntarily for GST/HST are required to complete the applicable sections of the Request for a Business Number form (form RC1) and file the completed document with the CRA.

Non-residents who do not maintain a fixed place of business in Canada and who become registered must provide security in a form (usually cash or bond) and amount satisfactory to the CRA. Initially, the amount of security is 50% of the estimated net tax remittable or refundable by the nonresident during the 12-month period after becoming registered, with the amount of required security changing each year to 50% of the actual amount of net tax paid or refunded for the previous year. The amount of security to be posted ranges from a minimum of CA$5,000 to a maximum of CA$1 million.

Registration for PST is accomplished by completing the applicable form(s) listed below and filing them with the appropriate provincial tax authority:

- British Columbia – FIN 418
- Saskatchewan – Application for Vendor's License
- Manitoba – MBT-RL1

Persons required to register or who wish to register voluntarily for QST are required to complete the applicable sections of the LM-1-V form and file the completed form with Revenu Québec. Most persons located in Quebec also register for GST/HST via this form.

There is no requirement for non-residents to provide security when registering for PST or QST.

Non-resident corporations typically have to provide additional documentation including their articles of incorporation when registering for GST/HST, PST and QST.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

Persons who only make supplies that are exempt from tax (and not zero-rated for GST/HST or QST) as well as non-residents who do not carry on business in Canada are not required to be registered.

Small suppliers and persons who only sell real property otherwise than in the course of a business are also not required to be registered.

For GST/HST and QST, a person is a small supplier if worldwide revenues from taxable supplies made by that person and any associated persons (excluding proceeds from goodwill, financial services and sales of capital property) exceed CA$30,000 in the current calendar quarter or the four calendar quarters immediately preceding. The small supplier threshold is increased to CA$50,000 for public service bodies.

For PST, small suppliers or sellers have annual taxable revenues of less than CA$10,000 and generally do not make sales from an established business premises.

9.7. Joint Liability

Agents who elect with principals to account for GST/HST and QST on taxable supplies made on their behalf can be held jointly liable for all obligations (including audit assessments) that can arise as a result of not charging tax correctly.

Agents can also be held jointly liable with principals for assessments of Saskatchewan and Manitoba PST not charged and collected in respect of supplies made on their behalf as agents are also allowed administratively to account for taxable sales made on behalf of principals on their own remittances.

Agents are generally not permitted, for purposes of British Columbia PST, to account for tax charged on sales made on behalf of a principal on their own returns and thus are normally not jointly liable in the tax authority's view with a principal for unremitted tax.

Members of a group of closely-related Canadian corporations and partnerships that elect to have GST/HST and QST not apply to otherwise taxable supplies made to each other are jointly liable for any tax payable in relation to such supplies.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

A registrant who makes a taxable supply in Canada is required, as agent of the Crown, to collect any tax imposed under the GST/HST, PST and QST legislation.

10.2. Registration

Refer to section 9.3 (Application Procedure).

10.3. VAT Identification Number

The Business Number is a nine-digit number under which GST/HST, corporate income tax and various other accounts may be opened. The GST/HST identification number is the Business Number with a six digit suffix beginning with the letters 'RT'. Business Numbers begin with the number '1', '8' or '7', and the most common suffix indicating a GST/HST account is 'RT0001'. The complete GST/HST registration number would be 123456789 RT0001.

The QST identification number is a ten digit number issued by Revenu Québec with a six digit suffix starting with the letters 'TQ'. Separate PST numbers are also issued by the provincial tax authorities. However, both Revenu Québec and the other provinces use the CRA Business Number to facilitate registration for QST and PST.

10.4. Tax authority

The CRA is the Tax Authority responsible for the administration of GST/HST.

Revenu Québec is responsible for the administration of QST and also administers the GST/HST on behalf of the CRA for all registrants except certain financial institutions) that are resident in Quebec.

PST is administered by the provincial ministries of finance for the provinces of British Columbia, Saskatchewan and Manitoba.

10.5. Invoicing

10.5.1. Valid Invoice

A registrant is generally unable to claim an input tax credit until he or she has obtained the relevant contract, invoice, receipt, or other satisfactory supporting document issued or signed by the vendor. The Input Tax Credit Information Regulations prescribe the specific information required, which includes the valid registration number of the vendor.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

There are no restrictions on the form or physical characteristics of documents used to support input tax credit claims, provided they meet the basic information requirements.

10.5.3. Electronic Invoicing

Electronic invoices are permitted.

10.6. Credit notes and debit notes

Where GST/HST or QST has been charged or paid in respect of a supply and the consideration for that supply is subsequently reduced, the supplier may adjust the amount of tax charged on the transaction. Where the tax has been paid, the supplier may refund the tax to the purchaser to the extent of the adjustment or may credit the purchaser's account. The adjustment to tax must be made within four years from the time the consideration was reduced.

Where GST/HST or QST has been charged or paid in error, a supplier may, within two years after the day that the tax was charged or collected, adjust the amount of tax and either refund the purchaser or credit the purchaser's account.

Where GST/HST or QST is adjusted, the supplier must issue a credit note to the purchaser (or the purchaser may issued a debit note to the supplier) setting out the amount of the tax change and other information relevant to the adjustment. The Credit Note and Debit Note Information (GST/HST) Regulations set out the information that must be contained in credit and debit notes issued.

PST paid in error can be recovered from suppliers in certain circumstances and within specified time limits

10.7. Books and Accounting Registers/Records

Every person who carries on business or engages in a commercial activity in Canada is required to maintain books and records of account for audit purposes.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Generally, records must be retained for six years from the end of the calendar year to which they are related, or for such longer period as may be prescribed by the regulations.

10.8.2. Format of Archiving

Books and records may be maintained in a number of forms, including:

- Traditional books of account with supporting documents;
- Records maintained in a machine-sensible data medium that can be related back to the supporting source documents and that are supported by a system capable of producing accessible and readable copy;
- Microfilm reproductions of records and books of account; and
- Electronic images of records and books of account.

10.8.3. Place of Archiving

The records must generally be kept in English or French or at the person's place of business in Canada. In certain cases, permission may be given keep books and records outside Canada.

10.9. Supporting documentation

The records must be adequate to determine the amount of the person's liability under the legislation or the amount of any refund or rebate payable to that person.

10.10. Tax period and VAT returns

A registrant or registered vendor is required to file a return for each reporting period. For GST/HST and QST, the reporting period can be a fiscal month, a fiscal quarter, or a fiscal year, depending on the registrant's threshold amounts. For PST, the reporting period can be monthly, quarterly, semi-annual or annual, depending on the amount of tax collected.

GST/HST, British Columbia PST and QST returns for monthly and quarterly filers must be filed within one month following the end of the registrant's reporting period. Returns for an annual reporting period are generally filed within three months after the end of a reporting period.

Manitoba and Saskatchewan PST returns are usually due on the 20th of the month following a vendor's reporting period.

10.11. Due Date for payment of VAT

Tax must be paid on the filing due date. Persons filing GST/HST and QST returns on an annual basis may also be required to pay quarterly installments.

10.12. Refunds of VAT

A registrant may be eligible to claim a refund of GST/HST and QST where the total amount of GST/HST (or QST) that is paid or payable exceeds the amount of GST/HST (or QST) collected in respect of taxable supplies made in a particular reporting period.

There is no refund mechanism for businesses that are not registered for GST/HST or QST.

10.13. Additional Reporting (statements)

There are no additional reporting requirements except for financial institutions.

11. Auditing

11.1. Auditing

The tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the registrant's accounting records and tax returns. Registrants and taxpayers may dispute an assessment raised as a result of an audit by filing a notice of objection with the applicable tax authoritiy's appeals branch or division

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Failure to file a GST/HST return as and when required is subject to a penalty equal to 1% of the net tax owing on the return, plus 25% of this amount times the number of complete months the return is overdue, to a maximum of 12 months. Other penalties could also apply.

Like the GST/HST, provincial legislation also provides for penalties for failure to file PST and QST returns on time as well as other penalties for non-compliance.

12.2. Interest on late payments

Interest at the prescribed rate is compounded daily until the total amount is paid.

For GST/HST, the prescribed rate is equal to the basic rate plus 4%. The basic interest rate is the average rate charged on Government of Canada 90-day Treasury Bills.

12.3. Joint Liability

Refer to section 9.7 (Joint Liability).

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

In most cases, the tax authorities may not commence proceedings to recover taxes from a registrant or a taxpayer more than four years after the time the return for the reporting period was filed or was required to be filed, whichever is the later. The limitation period may not apply in cases of fraud, neglect, carelessness or willful default.

13.2. Recovery of VAT by the taxable person

In general, a claim for an input tax credit (or input tax refund for QST) must be made in a return filed by the registrant within four years from the time the return in which the claim could have been made was required to be filed. Special rules apply to a "specified person" where the period for claiming an input tax credit (or input tax refund) is reduced to two years.

A person is a "specified person" if the person is a listed financial institution. In addition, a person is a "specified person" if their threshold amounts exceed CA$6 million in each of their two preceding fiscal years, except if the person's supplies (other than supplies of financial services) in either of the person's two immediately preceding fiscal years are all or substantially all taxable supplies.

14. Rulings and Decisions

14.1. Rulings

Taxpayers may apply for a ruling from the CRA to ensure the correct tax treatment of any type of supply.

14.2. Decisions

For GST/HST, a decision of the Minister of National Revenue may be appealed to the Tax Court of Canada. A notice of appeal must be filed with the Tax Court within 90 days of the Minister's decision. Decisions of the Tax Court may be appealed to the Federal Court of Appeal. A Federal Court decision may be appealed the Supreme Court of Canada, Canada's highest court, if the Supreme Court feels the issue has sufficient significance.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The general anti-avoidance rule (GAAR) is intended to prevent persons from benefiting from transactions undertaken primarily for the purpose of avoiding, reducing or deferring the payment of tax, or increasing a refund or rebate or other amount, where no other anti-avoidance provision is applicable. Such a transaction is considered to be "an avoidance transaction" and includes an arrangement or an event. The GAAR applies to all persons, e.g., registrants, persons claiming rebates, etc.

Where an avoidance transaction is undertaken, the Act provides that the tax consequences will be determined as is reasonable in the circumstances in order to deny the tax benefit that, but for the GAAR, would have resulted from that transaction or from a series of transactions which include that transaction.

16. Other Rules

16.1. VAT withholding regimes

There are no specific provisions on this topic.

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Chile

1. Scope

Chilean VAT is an indirect tax that works on a Credit-Debit system which, in general terms, taxes the following transactions:

a. Sales of goods.

b. Sales and other agreements transferring the ownership of tangible assets or real estate (excluding land), provided such operations are customary. The Chilean VAT law presumes that all sales made within an entity's ordinary course of business are customary. Also, for real estate the Chilean VAT law presumes that sales are customary when carried in a term equal or lesser than 1 year counted from their acquisition or construction.

c. Services contained under Article 20 No.3 and No. 4 of the Chilean Income Tax Law (hereinafter, "ITL") are subject to VAT provided they are rendered or utilized in Chile (e.g., commercial services, industrial services, financial services, among others).

d. Imports of goods into Chile.

Even though VAT is applicable uniformly in Chilean territory, there are some special tax jurisdictions where it does not apply, such as Free Trade Zones (e.g. in Iquique and Punta Arenas). There are also Free Trade Deposits which are a physically delimitated space (e.g. in Arica, Talcahuano, Valdivia, Puerto Montt, Castro and Coyhaique). Also, VAT is not applicable in the Eastern Island territory.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals, legal entities or other entities without legal personality that sell goods, provide services, or carry out any other operation subject to VAT.

2.2. VAT Grouping (VAT consolidation regime)

VAT Grouping is not allowed under Chilean domestic tax law.

3. Place of supply

Chilean VAT system does not provide a set of rules taking into account the origin of supply to determine whether a supply is connected to Chilean territory and therefore subject to VAT. Instead, the Chilean VAT Law only establishes a general rule to determine if a sale of goods or the provision of services are subject to VAT or not in Chile.

3.1. Goods

It is levied with VAT the sale of goods provided they are physically located in Chile at the moment of the sale and regardless of where the corresponding contract is concluded. For this purpose, the goods registered in Chile are considered as located herein, despite the fact that they are temporarily out of the country at the moment of the contract's conclusion.

3.2. Services

Services will be levied with VAT when rendered or utilized in Chile, regardless of where such services will be paid.

4. Chargeable event, chargeability of tax

4.1. Goods

In case of movable goods, the invoice should be issued when goods are delivered.

In case of Real State, the invoice be issued on date of the public deep purchases sales.

4.2. Services

In case of services, the invoice should be issued in the same tax period in which the remuneration is paid or put at disposal of the provider.

4.3. Imports

On the import of tangible goods, VAT should be paid upon filing the corresponding import declaration.

5. Taxable Amount

5.1. General Rule

As general rule, the taxable amount of the good or service will be determined by the value of the operation (price) agreed by the parties upon the transaction. In certain cases, the VAT Law establishes special rules to determine the value to be considered as tax basis.

Adjustments to the value of supply are permitted due to bonuses, discounts and similar commercial reasons, as long as certain conditions are met. These adjustments will take effect in the period in which they occur if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

Goods

The final price of goods should include: adjustments, interest, wrapping and packaging, and the taxes paid (except VAT).

Services

The final price of services should include: adjustments, interest, wrapping and packaging, and taxes paid (except VAT).

Importation

The taxable amount is the value declared in the customs declaration or the CIF value when the custom's value is not available.

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into local currency applying the exchange rate published by the Chilean Central Bank.

5.3. Rounding Rules

Recently, the 1 and 5 pesos coins stopped being issued. Therefore, for cash paments, if the total value ends from 1 to 5 pesos, is rounded down and if it ends between 6 to 9, it must be rounded to 10.

6. Rates

6.1. Standard Rate

The VAT standard rate is 19%.

6.2. Increased Rate

Not Applicable.

6.3. Reduced Rate

Not applicable.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

VAT exempted transactions preclude persons liable for VAT to recover input VAT charged in any purchase, service or import related to such transactions. These exemptions depend on the taxpayer status or the activity carried out by them.

Examples of exempted taxpayers are: television networks (except for the amount received in advertising); shipping lines and airlines only in regards to transportation of passengers; educational establishments; hospitals; social security services; universities, among others.

A VAT exemption is also available for national and foreign investors and foreign investment recipient entities regarding imported capital assets destined to the development, exploration or exploitation in Chile of mining, industrial, forestry, energy, infrastructure and telecommunication projects or of technologic, medical or scientific investigation or development, among others, provided they involve investments for an amount equal or greater than USD five million.

Examples of exempted transactions are: earnings that do not constitute income under article 17 of the Chilean ITL; income derived from some shows including for example, artistic and sports events; insurance premiums covering transport risks related to imports and exports; some specific services rendered in connection with exports; international transport of persons and goods; earnings perceived by professionals, self-employed workers and corporation's directors.

The Chilean VAT Law also establishes a VAT exemption applicable to remunerations which are subject to Additional Tax (withholding tax) under Article 59 of the Chilean ITL. However, such exemption does not apply in case of services rendered in Chile that are exempted of Additional Tax due to a domestic law or due to the application of a Double Taxation Treaty.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Export of goods and services are zero rated. In the case of services, Chilean Customs is in charge of qualifying services as exports provided some requirements are met.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable to tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions carried on the same taxable period and some additional requirements are met.

Input VAT generated at a pre-operative stage can also be used provided the entity is already registered as a taxpayer.

Where input VAT relates to both taxable and exempted transactions, such input VAT will be recoverable using a pro rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-residents that are not registered in Chile for tax purposes will be charged with VAT for the levied operations they incur into, without having the right to utilize such VAT as VAT input. Therefore, the latter will increase the cost of the goods or services provided.

As a general rule, the seller or service provider is the one obliged to withhold and pay the VAT. This general rule is altered when the seller or service provider is not domiciled in Chile, among other cases. In those cases, our VAT Law provides for a "change of subject" where the responsibility to withhold and pay the tax is transferred to the importer or the beneficiary of the service.

9.2. Registration for taxable person non established in the country

As a general rule, Chilean legislation does not provide for any registration mechanism for non-established businesses for VAT purposes. However, to benefit from the recovery mechanism that operates domestically, a non-established business is able to register as a taxpayer for Chilean tax purposes under general rules, for all tax purposes.

9.3. Application Procedure

Not applicable

9.4. VAT Registration: Simplification

Not applicable

9.5. Alternative procedures for-non established taxable persons

Not applicable

9.6. Exemption from the requirement to register

In case foreign individuals or legal entities, nor domiciled neither resident in Chile investing in the country with the sole purpose of receiving income from certain securities' transactions (e.g. sale and purchase of shares, bonds, promissory notes, derivatives, among others) through an institution, it will not be required from them to individually register and obtain a Tax Identification Number (RUT). In this case the custodian will be responsible of assigning such Tax Identification Number.

9.7. Joint Liability

Not applicable

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

In case of sales: the seller is the responsible person, but it will be the buyer's responsibility when the seller is not resident in Chile.

In case of services: the service provider is the responsible, but it will be the recipient's responsibility in case the provider is not resident in Chile.

Withholding agents are also obliged to account for withheld taxes in their records, and they must file a tax return and make payments on a monthly basis.

10.2. Registration

There is no specific registration for VAT purposes. There is a single registration process for all tax purposes, under which taxpayers receive a Tax Identification Number (Rol Único Tributario - RUT). There are no minimum thresholds for tax registration.

10.3. VAT Identification Number

Once registered, the Chilean IRS assigns the Tax Identification Number (RUT) to each taxpayer, which is composed of numbers only. In practice, in case of individuals, the RUT assigned will be the same as the individual's ID number (RUN), for example, 17.000.000-1. In case of legal entities, the Chilean IRS assigns higher numbers, and is currently in the range of 90 million plus a "verifying number", for example, 93.000.000-2.

10.4. Tax authority

The Chilean IRS is the authority in charge of construing and supervising the compliance of Chilean VAT Law. It is also entitled to administratively perform audits to ensure such compliance, by reviewing the taxpayers accounting records and tax returns as well. If assessments are carried out as a result of an audit, the Chilean IRS is entitled to charge unpaid taxes and apply the corresponding tax penalties.

Tax payments are collected and administrated by the Chilean National Treasury.

10.5. Invoicing

10.5.1. Valid Invoice

As general rule, Chilean VAT Law establishes that invoices should be issued exclusively as electronic documents.

Exceptionally, taxpayers that develop their economic activity in geographical places with no mobile or fixed data coverage from telecommunication operators, that have no access to electric energy, or have been decreed as catastrophe zones, will be authorized to issue invoices in paper format. Also, an authorization may be requested to the Chilean IRS for issuing invoices in format paper, which will be granted by means of a resolution that will have to express the grounds to give such benefit, individualize the taxpayer or group of taxpayers benefited and indicate its term of length.

A printed representation of the electronic invoice should as general rule be handed over to non-electronic receptors, who may alternatively opt for receiving them electronically and printing them themselves. Such representation should be printed in accordance to the Chilean IRS regulations, which set forth the layout, measures, labels and other mandatory information that they must comply with for tax purposes as well as the way to deliver, send archive and record these documents for both electronic and non-electronic receptors. Also, the electronic invoice should include an electronic Chilean IRS stamp and digital signature.

For their part, receipts may be issued electronically or in format paper at the taxpayers' choice. Both the invoices and receipts issued in format paper should also follow the Chileans IRS instructions in regards to their layout, measures and information to be included, as well as being stamped by the Chilean IRS in order to have legal validity.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Electronic invoices should comply with the IRS regulations and include an electronic Chilean IRS stamp and digital signature.

Every electronic invoice issuer should be an electronic receptor as well. Electronic receptors should register the corresponding invoice in the term set out by the law, hand over an acknowledgment of receipt and inform its approval or disapproval by the means and conditions agreed with the issuer, which shall at least comply with the minimum standard established by the Chilean IRS. Non-electronic receptors may opt to receive a printed representation of the electronic invoice or to receive the corresponding invoice by electronic means and print them themselves.

Invoices and receipts issued in paper format can be printed out by any printing company or business. However, they shall always follow the Chilean IRS regulations. Afterwards, they should get stamped by the Chilean IRS.

10.5.3. Electronic Invoicing

Please refer above.

10.6. Credit notes and debit notes

Only VAT sellers and service suppliers are entitled to issue credit or debit notes. These documents should be issued following the same requirements applicable to invoices.

These tax documents will be required to be electronically issued in the same way that invoices, notwithstanding the legal exceptions aforementioned.

10.7. Books and Accounting Registers/Records

Taxpayers shall hold the following Books:

1. Control Books (Libros de control)
   I. Net Income Tax Ledger for First Category Tax and the Taxable Profits Fund (Libro registro de la renta líquida imponible de 1° categoría y fondo de utilidades tributables (FUT)
   II. Account books of Z informs (Libro de informes Z)
2. General or Main Accountability Books (Libros de Contabilidad General)
   I. Accounting Journal (Libro diario), and General Ledger (Libro mayor)
   II. Inventory or stock and balances book (Libro de inventarios y balances)
3. Accounting Books (Libros auxiliares)
   I. Purchases and sales book (Libro de Compras y Ventas)
   II. Remunerations or payroll book (Libro de remuneraciones)
   III. Stamp Tax Book (Libro auxiliar de registro y control de impuestos de timbre y estampillas)
   IV. Electronic purchases and sales book (Libro de compras y ventas electrónico)
   V. Withholding book (Libro de retenciones)
   VI. Registry of provisioned credits or bad debts for tax purposes (Registro de Créditos Provisionados o Castigados para Fines Tributarios)
   VII. Fees book (Libro de honorarios)
   VIII. Cash Book (Libro caja),

Accounting books must be kept in the place of business. Violation of this requirement is cause of a fine.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

All the registers, records, ledgers and invoices should be kept in the business place for a period of six years.

10.8.2. Format of Archiving

A minimum amount of information has to be registered, according to accounting rules that make sure the records truthfully reflect the results of the business, and that they are accessible to the authorities.

10.8.3. Place of Archiving

All the registers, records, ledgers and invoices should be kept in the business place.

10.9. Supporting documentation

Persons liable to VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions, especially in case such information is required by the Tax Authorities during tax audits.

10.10. Tax period and VAT returns

The VAT return should be filed monthly, which means that a taxpayer must file 12 VAT returns per year. As a general rule, VAT returns must be filed within the first 12 calendar days of the immediately following month. For example, the February VAT tax return must be filed no later than March 12.

10.11. Due date for payment of VAT

VAT should be paid at the same moment the monthly VAT return is filed.

Exceptionally, taxpayers embracing the special regime for investment, working capital and liquidity in conformity with the Chilean ITL and taxpayers carrying full or simplified accounting whoseannual average of revenues does not exceed of USD 3,930,000 app in the last 3 years, will be entitled to delay VAT payment regarding VAT due in a particular month for up to two months. Provided they do not register arrearage in the payment of the VAT or Income tax.

10.12. Refunds of VAT

When the input credits exceed the output debits, the excess can be carried forward to the following periods as part of those periods' credits until exhausted. The excess is not refunded to the business.

Exceptionally, there are some special regimes applicable to exporters and purchases of goods destined to be treated as fixed assets by companies where refunds are permitted.

10.13. Additional Reporting (statements)

Taxpayers with an annual VAT input of CLP $ 250.000.000 or more, taxpayers considered as exporters of goods and services in accordance to Chilean VAT law and Supreme Decree N° 348 of 1975, taxpayers executing sales that qualify as exportations in accordance to special laws, taxpayers whose annual revenues per sales is equal or greater than CLP $ 600.000.000 and taxpayers which in accordance to Chilean IRS Resolutions are currently forced to file biannual Forms, are obliged to file on a semester basis, two sworn statements summarizing the information provided in the monthly returns.

11. Auditing

11.1. Auditing

Tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable person' accounting records and tax returns. If an assessment is performed as a consequence of an audit, tax authorities are entitled to challenge unpaid taxes and apply the corresponding tax penalties.

11.2. E-Auditing

Our legislation allows and in some cases demands (electronic invoices) to carry the information of certain documents by electronic means, and this facilitates the assessment and control of tax authorities, for example the electronic invoices are automatically informed to the Chilean IRS upon its issuance.

In short time audits and assessment will be easier to perform considering that all the information gathered from VAT returns, sworn statements, change of subject information and electronic invoicing, will be centralized in a unique system that will allow to cross such information, in order to detect irregularities in VAT returns and payments.

12. Penalties and risks for non-compliance

12.1. Penalties

Penalties might be imposed in case of tax infractions, and they vary depending on its gravity, such as, fines, the temporary closing of the business, goods seizure and jail.

12.2. Interest on late payments

As a general rule, interest for tax payment delay is 1.5% for each month (or fraction) of delay on the total or part of taxes due. Delays on fine payments will also accrue interest, which may vary case by case.

12.3. Joint Liability

Not applicable

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

Three years counted from the date in which the payment should have been made. This thee-year period could increase up to six years in case of taxes subject to the taxpayer's declaration, when such declaration was not presented or the one presented was untruthful. The aforementioned statutes of limitations could be increased in three months in case that a notification from the Chilean IRS fails to be delivered to the taxpayer.

13.2. Recovery of VAT by the taxable person

As already mentioned, there are very limited opportunities to claim VAT refund. As for the period the taxpayer can claim the recovery of VAT wrongfully paid or paid in excess, there is a 3 years period to claim such tax back.

14. Rulings and Decisions

The Chilean tax authority is entitled to apply and supervise the application of tax law. For this purpose, it is entitled to make pronouncements related to tax issues which will have general and/or particular applicability. These are administrative rulings are: (i) Rulings or opinions: through which the Chilean IRS answers to taxpayers questions and which are only mandatory for the individual that requested the opinion, but all together sets an interpretation frame; (ii) Resolutions: which aim to implement tax law; and, (iii) Circular letters: which are general pronouncements applicable to all taxpayers.

Decision Firstly, In Chile the tax courts are independent of the tax authority (IRS).

Tax trials are followed before specialized Tax and Custom Courts. Appeals are handled by the correspondent Court of Appeals and by the Supreme Court in a final instance.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

Chilean Tax Code contains a catalog of infraction and felonies that are punished by tax law. In case of fraud, the law contemplates jail penalties.

Additionally, the Chilean Tax Code contains a General Anti Avoidance Rule (GAAR), which grants the Chilean IRS the authority to disregard the legal form of transactions in the event of "abuse" or "simulated" tax planning (substance over form). "Abuse" or "simulation" must be determined by the competent Tax and Customs Court, upon request of the Chilean IRS.

Taxpayers and tax advisors may be fined when it is determined that they were engaged in the design or planning of an "abusive" or "simulated" transaction.

16. Other Rules

16.1. VAT withholding regimes

The VAT Law also establishes VAT special regimes for the following circumstances:

Special regimes for exporters

Our VAT Law and Supreme Decree N° 348 of 1975 and 20956 Law provides for a special Exporter's Regime with the aim to ensure the neutrality of VAT, according to the Destination Principle.

The latter consist that exporters will have the right to utilize the credit-debit mechanism or to recover the VAT credit incurred when acquiring and importing goods or utilizing services destined to its export activity.

Also, exporters who have an investment project approved by the Ministry of Economy may claim VAT credits in advance before the exports are completed or the VAT has been incurred (e.g., the claim may be based on estimated future VAT credits derived the export operations). Such amounts of VAT claimed in advance must be paid back to the tax authorities if the exporter does not carry the exports as planned in the approved investment project.

exporters who have an Investment under article 12 N° 10 letter B VAT Law and article 2 of law 20848 and this investment is for an amount equal or higher to 5 million dollars will be exempt to pay VAT.

Additionally, note that Law N° 20.549 incorporates as "exporters" under article 36 of VAT Law, Chilean Shipping companies which exploit mayor ships with capacity to allow on board overnight sleeping and that transport passengers to touristic places, only regarding foreign non-residents (e.g. Cruise Ships).

These taxpayers will benefit from such law, mainly because those services will be exempted of VAT and they will be able to recover the input VAT incurred in the acquisition and imports of goods and utilization of services related to such business, through the credit debit mechanism or by requesting its refund. Moreover, taxpayers having VAT credit excesses accumulated in the acquisition of fixed

assets for six or more consecutive periods (monthly periods) can also request its refund.

In October 2016, Article 36 is added to service providers who, in compliance with the requirements of the law, are allowed to avail themselves of the benefits of this article

The VAT excess could be obtained as a cash refund or be offset against other taxes. This anticipation of funds is later paid by the taxpayer through future VAT debits, plus the "reinstatement", adjusted per inflation. Taxpayers who finally do not carry out taxable activities are required to pay back the amounts received from the tax authorities.

Note that this is not properly the refund of a credit, but a financial arrangement that anticipates funds in order to benefit the taxpayer's cash flow. In case of VAT credit originated in other acquisition or services (different from fixed assets), the VAT credit to be anticipated must be proportioned.

Glossary

Sale: Sales and other agreements, regardless of the designation given by the parties involved, by means of which the ownership of tangible assets either movable or real estate is transferred, provided such operations are customary, as well as any other convention that leads to this objective or that it is considered as sale by the law.

Service: provision that one person performs in favor of another and for which receives a remuneration, provided these are services levied by Article 20 N°3 and N°4 of the Chilean ITL.

Chile

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Colombia

1. Scope

The Value Added Tax, known as Sales Tax ("Impuesto sobre las Ventas"), is levied on the sale of tangible goods, some intangibles, the supply of services and on importation of goods into Colombia, among others. The principle is that all such events trigger VAT except where an exemption is available. This is a national tax, which is structured as a value added tax in Colombia;

The VAT is not applicable on the Islands of San Andres and Providencia as well as the region of Amazonas. There exist specific rules to determine exempt status of these territories.

The following transactions are subject to Value Added Tax (VAT):

- The sale of tangible goods located in Colombia.
- The sale of intangible goods directly related to industrial property.
- The supply of services, either in Colombia or from abroad. In the event of services rendered from abroad, they will attract VAT if the purchaser or beneficiary of the service is a Colombian resident, or has a PE, domicile or place of economic activity in Colombia;
- The importation of goods; and
- The sale or operation of gambling and lottery.
- As general rule, the sale of fixed assets is not subject to VAT.

The export of goods and services are included in the definition of taxable supplies, although they have a zero-rate treatment.

For the purpose of VAT, sale is defined as any transfer of property or material movable assets with or without consideration, the self-consumption of material movable assets, and the capitalization as fixed assets of material movable assets.

2. Taxable Persons

2.1. Definition

The persons liable to collect and file VAT returns are those who carry out any taxable transactions, such as:

• In supplies of goods, the suppliers (i.e., distributors, manufacturers, etc.)

• Whomever supplies services.

• Importers

Persons which could be liable for VAT include any individual or legal persons, communities, corporations, consortiums and any other legal, economic, public or private entity that habitually or occasionally, manufacture, produce, assemble, or supply services. In general, legal entities conducting taxable activities would be liable to account for VAT, while individuals would be liable only if their taxable supplies exceed certain thresholds provided by law, among other requirements.

Certain state entities are also compelled to collect VAT for specific transactions. As an example, the National Aviation Authority is compelled to collect the VAT on the sale of aircrafts, which is collected at the moment the seller registers the sale before the Authority.

2.2. VAT Grouping

There are no VAT Grouping provisions in Colombia.

3. Place of supply

3.1. Goods

In the case of supplies of goods, the place of supply is where goods are located at the moment the sales takes place. In the case of importation of goods, the VAT taxable event would be the importation of such goods. Specific tax-deferral or exempting rules apply to import of equipment for several industries.

3.2. Services

The supply of services is taxable where the purchaser or beneficiary is located, except under the following circumstances:

Services related to real estate are taxable where the real estate is located.

The following services are taxable in the country where they are performed or carried out:

• Cultural and performing arts and the organization of such events; and

• Loading/unloading, relocation and warehousing.

4. Chargeable event, chargeability of tax

4.1. Goods

The triggering event for a supply of goods is the date when an invoice or equivalent document is issued, or the date the goods are delivered, whichever is earlier.

4.2. Services

The triggering event for a supply of services is the date when the service provider issues an invoice or equivalent documents or when the service is completed, paid or accrued whichever is earlier.

4.3. Imports

On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of importation of services, the chargeable event occurs when the service provider issues an invoice or equivalent documents or when the service is completed, paid whichever comes first.

5. Taxable Amounts

In the case of supplies of goods and services, the taxable amount generally comprises the total value of the transaction. The taxable amount includes also additional items which are incidental to or related to the supplied goods or services. It may also include items which individually are not taxed (i.e., cargo transportation). Additionally, there are special rules to determine the taxable amount for certain goods and services (such as rental of movable property, surveillance services and construction services).

5.1. General rule

Goods and services

The taxable amount is the total value of a transaction, paid in cash or credit, including usual, unanticipated or mandatory direct cost of financing, accessories, handling, installation, insurance, commissions, warranties, and ancillary expenses, even when separately invoiced or contracted and even when deemed exempt when sold independently. Supplies without consideration, to the extent that are not exempted, are also subject to VAT.

Any adjustment to the value of the transaction is part of the taxable amount. Price increases such as commissions, packing, cargo transportation or installation are also part of the taxable amount. The supplier must invoice these additional features separately to comply with invoicing regulations (a debit note would not suffice). Price reductions such as discounts (except for non-conditional discounts which are already included in the invoice) after sale would not reduce the taxable amount.

When the supplier provides financing to customers on the payment of the VAT incurred in the transactions, the portion of interest is not subject to VAT (unlike any other financing).

Be advised that, where services are provided for no consideration no VAT applies.

For both goods and services, in no case can the taxable amount be lower than the fair market value on the date of supply.

Importation

The taxable amount is the value used in the customs declaration in addition to duties, charges, compensation rights, interests and other expenses accrued upon importation.

Where the value of the goods includes “services” or the “value of intangible goods”, the taxable amount will be determined according to the Custom Valuation Agreement of the WTO.

On the importation of finished goods manufactured abroad or in a Free Trade Zone using national components that have been exported, the tax basis will be the value used in the customs return, added by the production cost without discounting the value of the national components exported.

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published by the Central Bank corresponding to the date on which the supply takes place.

5.3. Rounding Rules

All figures included in the VAT returns must be rounded up or down to the nearest thousandth multiple. As an example, if total output VAT to be reported is COP $6,716,420 the figure to be included in the return would be COP $6,716,000.

6. Rates

6.1. Standard Rate

The VAT standard rate is 19%.

6.2 Increased Rate

No information available

6.3 Reduced Rate

A lower rate of 5% is applied on some goods classified regarding the NANDINA Code and for specific services provided by the Tax Law.

The list includes, among others:

- Toasted and decaf coffee.
- Oat.
- Rice and corn for industrial purposes.
- Wheat, except for sowing.
- Unrefined soybean, palm, sunflower, cotton, palm nut, corn and canola oil.
- Table chocolate.
- Wheat flour.
- Cereal flour.
- Machines for poultry farming.
- Electric cars destined for public service.
- Chassis destined for electric cars.
- Car bodies destined for electric cars.
- Storage of agricultural products in general bonded warehouses.
- Agricultural insurances.
- Prepaid medicine plans.
- Security, concierge, cleaning and temporary employment services, as long as they are provided by non-profit entities (certain requirements apply).

When the input VAT is greater than output VAT (due to sales of goods and services being taxed with VAT at 5% while purchases from vendors being taxed at generally 19%) a full credit will be allowed as well as refund may be available, provided some requirements are met.

The refund/offset can be requested once the income tax return of the corresponding year is duly filed. In this case the term to request the offset is one month from the filing due date of the income tax return of the fiscal year in which the balance in favor arise.

0% Rate

Some goods and services are levied with a 0% rate (see sections 7.2 and 7.3).

7. Exemptions

7.1. Exemption with no right to offset input VAT (Untaxed supplies)

The VAT law specifically excludes from the scope of the tax a long list of products that are classified under the NANDINA Code (Andean Community Nomenclature). These products are not subject to VAT in Colombia.

The list includes, among others:

- Livestock and farm animals;
- Tuna;
- Honey, coffee and cocoa beans (not roasted);
- Agricultural products (legumes, roots, vegetables, rice and corn);
- Agricultural machinery included within customs classification 84.33 and 84.36;
- Equipment for converting vehicles to dual fuel system (gas and petrol);
- Electric power;
- Natural gas;
- Medicines including oral contraceptive and contact lenses;

- Tablets not exceeding COP$ 729.432 (approx. USD 234 for year 2018);
- Personal computers not exceeding COP $1,657,800 (USD 522,6 for year 2018);
- Tools, machinery and technology used to preserve and protect the environment.

The following supplies are also not subject to VAT:

- Life, catastrophic diseases, and education insurance, as well as re insurance intermediation services;
- Temporary importation of goods;
- Goods imported by diplomatic mission - subject to reciprocity;
- Importation of military arms and ammunition destined for National Defense;
- Temporary importation machinery for basic industries - when not manufactured in the country;
- Importation of machinery for waste procession - when not manufactured in the country;
- Public and private, national and international freight transportation;
- Public transportation of passengers in the national territory by water or land;
- National air transportation of passengers to national destinations, where there is no organized land transportation;
- Transportation of gas and hydrocarbons;
- Interest and other financial income from credit transactions and financial leasing;
- Medical, dental, hospital, clinical and lab services for human health; and
- Public utilities including energy, water, sewage, street cleaning, garbage collection and gas distribution.
- Restaurant and cafeteria services (this services are subject to an excise tax)
- Currency exchange services
- Housing rental, as well as rental of spaces for cultural or artistic events.
- Education services
- Sport promotion services
- Hosting, cloud computing and software and hardware and programms maintenance service at a distance.

7.2. Exemptions with right to offset input VAT and refund on a bimonthly basis (Zero-rated supplies)

The following supplies are zero-rated with full credit for eligible input VAT, as well as refund/offset being Available on a bimonthly basis.

- Exported goods;
- Goods and services supplied to International Trading Companies (provided they are efectively exported)
- Specific supplies to industrial users of the free trade zones;
- Exported services (under specific requirements).
- Internet services for low to mid-income residential customers.
- Producers of exempt goods that once the electronic billing system enter into operation according to the procedures adopted by the Tax Authority, adopt and use it among its entire chain of customers and suppliers.
- Tourism packages sold to foreign individuals or entities to be used within Colombia by some specific travel agencies or hotels.
- Prints of cultural and scientific books and magazines.

7.3 Exemptions with right to offset input VAT and refund every semester (Zero-rated supplies)

The followings is a list of some of the goods classified as zero-rated (according to the NANDINA code), which allows the taxpayer to ask for a refund of the input VAT twice a year.

The first one, which corresponds to the first three bimonthly periods, can be requested as from July, following the filing of the respective VAT returns and income tax return of the previous taxable year.

The second one can be requested once the income tax of the corresponding taxable year and bimonthly VAT returns (corresponding to those filed during the second semester) which refund will be requested are dully filed.

List includes, among others, the following:

- Fuel alcohol;
- Vegetal bio-fuel;
- Fresh eggs, meat, milk, fish.

8. Deductions

8.1. VAT recovery

Input VAT incurred by taxable persons can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and when additional requirements are met. Input VAT generated at a startup phase may also be recovered.

Input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes. Where input VAT relates to transactions within the scope of VAT and exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

As a general rule, the input VAT can be claimed as a credit in the VAT return of the tax period where the cost or expense was actually accrued; however, there is a special regulation for the taxpayers who are compelled to file VAT returns on a bimonthly basis, which implies that the input VAT may be claimed as a credit in the VAT return of the bimonthly period where the cost or expense was accrued or within the following three tax periods (see section 10.5). When the VAT agent is compelled to file four-monthly returns, input VAT can be claimed in the taxable period the cost or expense is accrued, or in the following taxable period.

Such input VAT must be recorded in the accounting records of the tax period in which the input VAT was claimed.

Input VAT accrued in the acquisition of fixed assets cannot be offset against output VAT. This tax must be treated as part of the costs for income tax purposes. However, the taxpayer can decide to directly deduct the VAT paid for income tax purposes in the taxable year the asset is acquired if the assets qualify as capital goods.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses performing a permanent business activity in Colombia are required to register a permanent establishment as well as for VAT purposes (to the extent performing taxable activities)

9.2. Registration for taxable person not established in the country

Colombian legislation does not provide any registration mechanism for non-established businesses for VAT specific purposes. However, beginning July 2018, non-resident service providers maybe required to register as further discussed ahead.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

Filing frequency depends on taxpayer's annual revenue on 31 December of the previous taxable year. For businesses with annual revenue in excess of approx. USD 1M or VAT tax payers that are subject to zero rate, the frequency is bimonthly. If annual revenue is lower than approx. USD 1M the filing frequency is each four months.

No VAT filings are required for periods where no inputs or outputs exist.

VAT paid to vendors (other than VAT paid on fixed assets) is creditable even if paid at rates higher than those at which taxable sales are made. Where a receivable arises out that credit, a refund will be available upon request subject to certain circumstances.

10.1. Persons Liable to account for VAT

The supplier is liable to charge and account for the VAT on transactions, except on services rendered by non-resident providers, in which cases VAT is self-assessed (reverse charged) by the local purchaser who, in this instance, becomes the person liable for VAT (whether VAT registered or not).

10.2. Registration

Resident businesses should obtain a tax identification number which is used for all tax purposes (including VAT). This tax number consists of ten numbers.

Non-residents, historically, have not been required to register for VAT except if they have a permanent establishment. New rules to come into effect July 1, 2019 require non-residents to register whenever they sell taxable services into customers who are not registered for VAT. Also digital services by non-residents may create a registration requirement.

10.3. VAT Identification Number

The registry will assign a Taxpayer Identification Number ("Número de Identificación Tributaria" - NIT) The Tax Identification Number format in the case of legal entities is 999.999.999-9. The last digit number is a verification number that is the result of an algorithm calculated on the nine previous numbers.

10.4. Tax authority

The Directorate of National Taxes and Customs (Dirección de Impuestos y Aduanas Nacionales - DIAN) is the government entity responsible for the administration and enforcement of all national taxes including Value Added Tax.

DIAN is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are raised as a consequence of an audit, DIAN is entitled to challenge unpaid taxes and apply the corresponding tax penalties and interests.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the Invoicing Regulations.

The regulations provide the criteria that the format, measures, expiration date and other mandatory information that invoices and receipts must meet for tax purposes.

Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes. For established business invoices must comply with the following requirements:

a. The invoice must be expressly denominated as a "Sale Invoice" (in Spanish "Factura de Venta");

b. Name and taxpayer identification number of the supplier;

c. Name and Taxpayer identification number of the purchaser of goods or services, and the detailed VAT applicable to the underlying transactions;

d. Sequential number. If the business is conducted in more than one commercial establishment, each of them should have its consecutive numbering;

e. The number of the Resolution issued by the National Tax Office whereby it authorizes the sequential invoice numbers;

f. Date of issuance;

g. A general description of the related goods or services;

h. The value of the transaction;

i. The name and Taxpayer ID number of the printing company who imprinted the invoices (in the case of lithographic or typographic pre-printed invoices); and

j. The indication of the qualification of the supplier as a VAT withholding agent, when applicable.

The requirements referred to in sections a., b., d. and i. above must be previously printed either lithographically or typographically. It is also possible to issue electronic invoices by complying with certain technical requirements that include the previous approval by the National Tax Office of the related software.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Outsourcing of VAT billing is permitted; self-billing is not common in Colombia.

10.5.3. Electronic Invoicing

An electronic invoicing regulation was initially introduced in 1996 but due to the fact that mechanism was inadequately implemented, a new regulation was issued in 2005.

These second-generation rules for electronic invoicing are still in force and apply to entities that adopted electronic invoicing procedures as of November, 2008.

The electronic invoice is by legal definition the document supporting transactions that for tax purposes ought to be issued, delivered, accepted and stored by electronic media.

The electronic procedures adopted from issuance to storage of invoices, must assure the authenticity and integrity of the invoice information.

Companies must comply with regulations for handling electronic information and also must be certified under ISO 9001:2000 to be allowed to use electronic invoices.

A third generation rules for electronic invoices has been enacted through Executive Order 2242 of 2015, according to which e-invoices will have to be issued using a XML format established by the Tax Authorities. Pursuant to Law 1819/16, all businesses and individuals in scope of VAT would have to issue electronic invoices as of January 1, 2019. However, the Tax Authority is entitled to select taxpayers to issue e-invoices before such deadline.

Pursuant to Resolution 72 of 2017, taxpayers that had requested e-invoicing approval within the previous 5 years before the Resolution 72 of 28/12/17 was enacted, are compelled to e-invoice before 29/03/18. If those taxpayers enacted more than 3,000,000 during the FY 2017, e-invoice obligations will arise as of 01/09/18.

Major taxpayers must issue e-invoice before 01/09/18.

10.6. Credit notes and debit notes

These documents should be issued following certain specific requirements.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.

However, whenever a credit note is issued due to the compliance of conditional discounts (instead of discounts included in invoices), it cannot modified the VAT that has been triggered.

10.7. Books and Accounting Registers/Records

Legal accounting books are the Daily Ledger and the Balance Ledger. On the legal books, a control of VAT should be kept under the VAT payable accounts. There are no specific accounting books that must be recorded for VAT purposes besides those just mentioned.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Accounting books and supporting documents must be physically stored for tax purposes for the same term provided by the statute of limitations for Income Tax returns, which is generally three years from the end of the tax period to which they relate. However, pursuant to commerce legislation, accounting books should be stored for at least ten years from the end of the corresponding period.

10.8.2. Format of Archiving

As stated above, VAT supporting documents must be stored by using any acceptable media or supporting device (i.e. hard or soft copy), for the period provided for the statute of limitations of the returns supported with such documents. Once the statute of limitations has expired, supporting documents should be stored on electronic media.

In regards to accounting books, they must be materially stored for ten years, after which they may be destroyed only if it is possible to obtain a reproduction if required. Therefore after the ten-year term has expired, books could be stored on electronic means.

10.8.3. Place of Archiving

Accounting books and supporting documents should be stored at the entity's domicile.

10.9. Supporting documentation

Persons liable for VAT are required to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities may issue assessments during tax audits. The documents that should be stored are accounting ledgers invoices, import documents and any other documents provided by law.

10.10. Tax period and VAt return

By monthly and every four months.

10.11. Due Date for payment of VAT

The VAT payment is due on the return filing due date. Non-payment of VAT due alongside the filing of the VAT return, or not charging VAT will derive into a criminal offense. Payment of the VAT due and interest thereof extinguishes the criminal liability.

10.12. Refunds of VAT

When the input credits exceed the output credits, the excess can be carried over to following periods as part of those periods' credits until exhausted via sales. The excess is not refunded to the business, except for VAT credits related to zero-rate sales and services and VAT credits related to 5% sales and services.

Taxable persons subject to VAT withholding are also eligible for a refund of any receivables pertaining to VAT withheld by customers only.

There are special regimes for exporters and non-taxable entities to enable VAT refunds (see sections 7.2 and 7.3).

These refunds may be claimed in the two years following the due date of the VAT returns. Refund requests filed with bank or insurance-guarantee deposit are generally approved within the following 20 business days after filing, while refund requests related to zero-rate sales and services and VAT credits related to 5% sales and services file without said guarantees are generally approved within the following 30 business days. Exceptionally a 50 working days term applies to refund VAT overpayments.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

For tax purposes, legal entities must report to the tax authorities by electronic media the amount of output VAT and input VAT on a yearly basis. The information to be reported comprises the input and output VAT amounts, identifying the supplier and customer respectively by name and tax identification number. The information is used to conduct cross examinations and to assess the reliability of the information supporting the taxpayer's figures.

11. Auditing

11.1. Auditing

Tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxpayer's accounting records and tax returns. If an assessment is issued as a consequence of an audit, tax authorities are entitled to challenge unpaid taxes and apply the corresponding tax penalties.

11.2. E-Auditing

Please refer to the Additional Reporting (statements) section above.

12. Penalties and risks for non-compliance

12.1. Penalties

Interest on late payments is accrued at the maximum legal interest rate set by the Colombian Finance Superintendent.

If the VAT returns are filed after the due date, a delay penalty of 5% of the tax due is assessed for each month of delay. If there is no balance to be paid, the penalty for each month of delay would be 0.5% of the tax period gross revenue, without exceeding 5% of such gross revenue for the period or twice the value of the credit balance (if any), whichever is lower.

The amendment penalty (for voluntary disclosure) is 10% of the difference between the initial debit or credit balance reported in the VAT returns and the debit or credit balance reported in the amended return for the period. Be advised that this penalty is not applicable when the amendment does not modify the tax liability, or if such amendment reduces the tax payable or increases the credit balance. In this second scenario, the taxpayer must file an amendment project, which must be accepted or rejected by the Authorities within the following 6 months.

Interest will be assessed for each day of delay. The applicable interest rate is the maximum legal rate set by the Colombian Finance Superintendent for the corresponding quarter.

Whenever the Tax Authorities modify the tax return through an audit, the amendment penalty may increase to 20% or even 160% if requested by the tax authorities.

12.2. Interest on late payment

Yes, at rates near 30% annually.

12.3. Joint Liability

There are no specific provisions on this topic. The only responsible person for paying VAT due, penalties and interest is the legal entity in charge of collecting VAT.

13. Statute of Limitations (SoL)

13.1. Recovery of VAT by the tax authority

The general statute of limitations for the failure to file VAT returns is five years following the filing due date.

If the return was filed, the return has a three (as a general rule), six, twelve or fifteen years of SoL following the filing due date of the income tax return of the same taxable year of the corresponding VAT returns. SoL will depend if the income tax return has tax losses (in which the SoL is of 12 years), if it is a transfer pricing liable taxpayer (6 years), or if it compensates tax losses in the last 2 years of the income tax return's SoL (15 years).

For returns on which a refund has been claimed, the two-year audit term starts after the request for refund is filed.

13.2. Recovery of VAT by the taxable person

As a general rule, refund applications (only applicable to exporters and zero-rate taxpayers) must be filed before the Tax Authority within the following two years after the VAT return filing date as described in the VAT return section. Taxpayers eligible for withholding VAT on sales of goods and services are also eligible for refunds.

14. Rulings and Decisions

Rulings and Decisions are issued by the Tax Authorities and by the Tax Courts, respectively. They only provide criteria to resolve matters of interpretation on a general basis. Rulings issued by the Tax Authority are binding for Tax Officials but not to taxpayers.

Upon controversies between taxpayers and the Tax Authority, the final decision is in the hands of the State Council ("Consejo de Estado"), which is the highest tax court. If the amount in dispute does not exceed 100 minimum-monthly wages, (COP $ 78.124.200 roughly USD 26.041,4 — Exchange rate: Cop $3.000) the final decision would be issued by the lower tax court of the local jurisdiction.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The Tax code establishes some anti-abuse provisions (General Anti-Avoidance Rule), which allows the Tax Authorities to disregard the transactions that in their opinion do not have a valid commercial or business purpose and which tends to modify, reduce, eliminate or deferred the tax consequences.

The Tax Authorities have the capacity to re-characterize the nature of the transaction and therefore its tax consequences.

16. Other Rules

16.1. VAT withholding regimes

As an additional measure, the tax law provides that major taxpayers must account and withhold VAT for purchase transactions with suppliers (legal persons) subject to the VAT common regime or in a transaction where the taxpayer purchases from an International Trade Company. The withholding rate is now 15% of the input VAT due on the purchase invoices.

Taxpayers, who are in this case withholding agents, are obliged to account for withheld taxes in their records, file a return and make VAT payments on a monthly basis. Overpayments of withholding tax may be carried forward to future withholding returns.

16.2. Other regimes

There is a simplified scheme available only to individuals who are retailers, traders, artisans, agricultural and livestock businesses who meet the following criteria:

- Carry out taxable transactions.
- Annual turnover does not exceed UVT 3,500. Colombian tax unit or UVT (Spanish acronym for Unidad de Valor Tributario) is an index created for tax purposes. The current UVT value is COP 33.156 (roughly USD 11).
- Are not registered importers.
- Have not signed contracts for supply of goods or services for more than UVT 3,300 in the current and previous tax periods.
- Have not received or made bank deposits, transferences, or financial investments higher than COP UVT 3,500 (total) (roughly USD 38,682) during the current and previous tax year.

16.3. Contributions in kind, mergers and de-mergers.

According to the tax code, contributions in kind, mergers and de-mergers are not subject to VAT, provided they satisfy substantive requirements.

16.4. Excise tax

As of January 1st, 2013, there is a new national tax that levies the consumption of select services and goods:

- Mobile phone services at 4%
- Certain vehicles, aircraft and other goods at 8% or at 16%
- Restaurant and cafeteria services at 8%

- Certain vehicles, aircraft and other goods at 8% or at 16%
- Restaurant and cafeteria services at 8%

Colombia
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Costa Rica

1. Scope

A General Sales Tax (GST) is levied on the value added on the supplies of goods in general, except for those specifically exempted by law.

The definition of goods does not include the securities represented by shares, bonds, policies, deeds, stamps, postage stamps, bank bills, landed assets by nature, nor living animals.

In general, the supplies of services are not subject to GST, except those specifically mentioned in the law, which include:

- Restaurants, Bars, Nightclubs, social clubs, entertainment clubs and the like;
- Hotels, motels, hostels, and places of transitory stay;
- Repair and painting of all sorts of vehicles;
- Repair and refurbishment of all sorts of merchandise;
- Parking lots;
- Telephone, cable, telex, beeper, messaging services and the like;
- Development and copy of photographs, including photocopies;
- Storage and other non-financial services offered by general deposit warehouses, customs warehouses and temporary storage of goods;
- Laundry and ironing services;
- Public spectacles in general;
- Radio, press and television press services;
- Transmission of television programs via satellite, cable or other similar systems;
- Recording and rental of “videos” and “tracks”;
- Customs agency services;

- Real Estate brokerage services;
- International moving services;
- Insurance premiums;
- Printing press and lithography services; and
- Wash, wax and other vehicle cleaning and maintenance services.

For the purposes of the GST Law, supply is understood to be:

- The transfer of domain of goods;
- The import or introduction of goods into national territory;
- The sale in consignment, the layaway of goods, as well leasing with a purchase agreement;
- The withdrawal of goods for the taxpayer's personal use or consumption;
- The supply of the services referred to in the previous list; and
- Any act that involves or ultimately intends the transfer of property of goods, independently of its legal nature and designation, or the conditions agreed between the parties.

2. Taxable Persons

2.1. Definition

The taxpayers are the individuals or corporate entities, whether in fact or duly incorporated, public or private, that habitually carry out supplies of taxable goods or services. In addition, persons of any nature that import or bring into the country goods are subject to GST.

In addition, individuals or corporate entities, whether in fact or duly incorporated, public or private, that carry out export sales are obligated to file returns. All exporters, whether general sales taxpayers or not, are obliged to file GST returns.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT grouping provisions in Costa Rica.

3. Place of supply

3.1. Goods

Costa Rican GST is applied on a territoriality basis. Therefore, the supply of goods located, or finally imported into Costa Rican territory, are subject to Costa Rican Sales Tax.

3.2. Services

Services are generally not subject to GST in Costa Rica. However, when services are subject to GST, the Costa Rican territoriality principle will apply. Therefore, tax will only be applied on taxed services supplied in Costa Rica.

4. Chargeable event, chargeability of tax

4.1. Goods

In the supplies of goods, the chargeable event is the moment of the invoicing or delivery of the goods, whichever occurs first.

In the case of the use or consumption of goods by the taxpayer, the taxable event is the date in which they are withdrawn from the inventory.

In the case of the layaway or consignment of goods, the tax will be triggered at the moment when the merchandise is put on layaway or consignment, as may correspond.

4.2. Services

In the supplies of services, the taxable event will be the moment of the invoicing or the supplying of the service, whichever occurs first.

4.3. Imports

In the case of the import of goods, the taxable event is the moment of acceptance of the corresponding customs declaration or form.

5. Taxable Amount

5.1. General Rule

The tax on the supply of goods is levied on the net sale price. The following are excluded from the taxable amount:

- Discounts generally accepted in commercial practice, as long as they are generally and usually applied and they are detailed separately from the sales price in the corresponding invoice.
- The value of the services supplied by virtue of the supply of taxable goods, as long as they are supplied by third parties and they are invoiced and accounted separately.
- Financial expenses invoiced and accounted separately.

In the supply of services, the tax is levied on the sales price, after deducting the items mentioned in the supply of goods, as applicable.

In the import of merchandise, the taxable value on which the tax is imposed is determined by adding the CIF value plus the amount effectively paid for import duties, luxury excise tax or specific taxes, as well as any other that impacts on the import and any additional charges that appear in the customs declaration. The tax thus determined must be stated separately in those documents and the payment must be demonstrated before the corresponding goods are taken from the customs warehouse.

5.2. Exchange Rate Rules

The GST Law does not establish specific exchange rate rules. However, as a general rule, the Costa Rican Central Bank Act establishes that the currency of the country will be the Costa Rican colones (CR ¢). However, article 48 of the Central Bank Act also establishes that transactions in foreign currency will be valid and enforceable, but may be paid at the customer's discretion in colones, at the exchange rate determined by the Central Bank of Costa Rica.

In this sense, the taxpayer of the GST must report the resulting tax in the appropriate returns in Costa Rican colones.

5.3. Rounding Rules

There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate

The Standard Rate is 13% of the net sale price.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

To the residential consumption of electric energy it will be applied a permanent rate of 5%.

According to Law N°7575, wood will be subject to a General Sales Tax equal to the General Sales Tax minus 3 percentage points. The individuals and companies, owners of centers of primary industrialization of wood, are obliged to comply with the payment of the GST. The tax rate applied is 10%.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following goods are exempt from GST:

- Goods included in the Basic Food Basket;
- Tires and the retread of tires exclusively for agricultural use;
- The veterinary products and farming materials that are determined jointly by the Ministry of Agriculture and Cattle Breeding and the Ministry of the Treasury;
- Medicines;
- Kerosene;
- Diesel for non-sport fishing;
- Books;
- Musical compositions;
- Framed and non- framed paintings created in Costa Rica by national or foreign painters;
- Caskets;

- Monthly consumption of residential electricity equal or less than 250 kw/h; when the monthly consumption exceeds 250 kw/h, the tax will apply to the total kw/h consumed; and
- The export of taxed and non-taxed goods and the re-importation of national goods that take place within three years after their export.

7.2. Exemption with right to deduct input VAT (Zero rated supplies)

There are no exemptions with right to deduct input tax.

8. Deductions

8.1. VAT recovery

Input VAT incurred by taxable persons can be offset against output VAT as a credit, provided that it is duly supported by invoices and registered in the taxpayers' accounting.

The tax debit is determined applying the rate of the tax to the total taxable supplies of the corresponding month, in addition to the tax paid for insurance premiums that protect goods, machinery and materials directly incorporated or used in the manufacture of the good or the supply of taxed services.

The tax credit is determined by adding the tax actually paid by the taxpayer on the purchases, import or introduction of goods during the corresponding month. The tax credit is calculated for the tax paid in the acquisition of supplies, packages, packaging materials including raw materials, packaging and labeling,; machinery, equipment, parts and spares; electric power; other goods used in the process of production, marketing and distribution of goods that the taxpayer intends for the sale of goods, taxed or exempted or are earmarked for export, in commercial, agricultural and industrial, main and related activities, in respect of insurance premiums that protect property, equipment and supplies, and equipment and materials used in the work of waste management and quality control of their products.

In all cases, the tax credit for local purchases must be backed by invoices or receipts duly authorized by the Tax Administration.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

A GST registration must be filed immediately at the start of the business activities in Costa Rica. If the taxpayer does not register, the tax authorities may register the foreign company or individual ex officio. In this case, the person may not take advantage of the tax credit for the goods acquired prior to the registration by the tax authorities.

9.2. Registration for taxable persons not established in the country

The taxable person not established in country will have to file the registration form (Registry, De-Registry or Modification Form) with the tax authorities, registering as a GST taxpayer. In addition, the tax authorities may require the person to register as an Income Tax taxpayer.

9.3. Application Procedure

The registration form is filled out with the Taxpayer's information, address, business activity and other requested information, and signed by the taxpayer or their duly appointed legal representative. The form is then filed with the nearest local tax authority office. Once filed, the Tax Administration will issue a confirmation letter which has to be kept in the company's permanent accounting records.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

No exemption is available. If the individual is carrying out any of the activities described by the GST Law, they are obligated to register.

9.7. Joint Liability

No joint liability applies in Costa Rica. In case that a person is carrying out supplies of taxable goods or services in Costa Rica, they will be considered the liable taxpayer.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

Any person who is carrying out the activities described in the GST Law will be liable to account for and pay VAT.

Notwithstanding the penalties that they may be subject to, the taxpayers that do not comply with the obligation to register, will be required, in any case, to pay the tax and will not have the right to a refund or credit for the tax paid on the existing goods in their inventory at the date of their registry as taxpayers.

10.2. Registration

The liable taxpayer will have to file a registration form before the Tax Administration in order to obtain GST registry. In addition, the Tax authorities may require the person to register as an Income Tax taxpayer. The registration must be filed immediately at the start of the business activities in Costa Rica. If the taxpayer does not register, the Tax Administration may register the foreign company or individual ex officio. In this case, the person may not take advantage of the tax credit for the goods acquired prior to the registration by the tax authorities.

10.3. VAT Identification Number

There is no separate GST Identification Number. Instead, the individual's personal identification number or the company's corporate identification number is used.

10.4. Tax authority

The Tax Authority is the General Tax Administration, which is part of the Ministry of the Treasury.

10.5. Invoicing

10.5.1. Valid Invoice

The Tax Administration established the obligation for taxpayers to implement the use of an electronic billing system as of 2018.

The requirements of the Invoice are:

- Identification of taxpayer or declarant: full name or business name, business name or fantasy name if it exists, identity card number, legal identification number, Immigration Identity Document for Foreigners (DIMEX) or Tax Identification Number (NITE), complete address of the business (Province, Canton, District, Neighborhood and other signs) and email address.
- The name of the type of document, which must include the word "electronic", shall include the type of document with the denomination: "Electronic Invoice", "Electronic Ticket", "Electronic Credit Note" and "Electronic Debit Note".
- Consecutive numbering: The system of the taxpayer for the issuance of electronic vouchers, must assign automatically and consecutively the numbering for each type of electronic document, without being susceptible to be modified, as established in Article 4 of this resolution.
- Number key
- Date of issue of the electronic document: The system must indicate in that field the date corresponding to the day on which the electronic vouchers are issued, without being susceptible to modifications.
- Time of issue of the electronic document: The system must indicate in that field the time in which it was issued and delivered the electronic voucher according to the time zone of Costa Rica; in the case of documents issued extemporaneously to replace provisional vouchers issued in cases of contingency (electronic invoice for

contingency), the time indicated in the "Time of issuance of the reference document" node found in the section d) "Reference Information" of the annexes and structures.

- Conditions of sale or service: credit, cash, section, consignment, lease with purchase option, lease in financial function or any other condition that is consigned in the invoice.
- Means of payment: card, cash, check, transfer - bank deposit, collected by third parties or any other condition stated on the invoice.
- Current Regulations (Resolution): For purposes of the graphic representation, the legend "Authorized by Resolution No. DGT-R-48-2016 of October 7, 2016" must be shown.
- The electronic vouchers must be expressed in Spanish, however, they may be written in a different language, in which case, if required by the Tax Administration must provide their respective translation into Spanish.
- Detail of the merchandise or service provided: quantity sent, unit price expressed in national currency or foreign currency, unit of measure, product code, description of the product or service and transaction amount expressed in national currency or foreign currency.
- Discounts granted, with the indication of their nature and amounts.
- Subtotal of the invoice in national currency or foreign currency.
- or. Amount of the Selective Consumption Tax, when the seller is also liable for the tax and the amount of any other tax that falls on the taxed goods or services.
- The value of the services rendered expressed in national currency or foreign currency, separating the taxable from the exempt.
- The value of the goods expressed in national currency or foreign currency, separating the taxed and exempt.
- Net price of sale expressed in national currency or foreign currency, without including the General Sales Tax.
- Amount of the tax equivalent to the rate applied on the net sale price, with the indication "Sales Tax" in case the client requires this information in the ticket.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

In the case of outsourcing and self-billing, the withdrawal of the goods must be duly documented in accordance with the company's internal documentation policies and the corresponding GST declared and paid as corresponds in the month's GST return.

10.5.3. Electronic Invoicing

Electronic invoicing is allowed, as long as the above mentioned information is contained in the invoice and the system that generates the invoices is trustworthy and auditable. Starting in 2018, the use of electronic invoicing will be mandatory for certain taxpayers. The Electronic Invoice will be implement in tracts.

10.6. Credit notes and debit notes

Previously the supplies must always be documented by an invoice. However, under certain exceptional circumstances, a credit note may be used to document a decrease of a sale (such as the return of defective goods, or discounts).

However, with the implementation of the electronic invoice, the Credit Note and Electronic Debit Note will be the electronic vouchers that allow to cancel or modify the accounting effects of the electronic invoice or electronic ticket, without altering the information of the origin document.

10.7. Books and Accounting Registers/Records

The company must keep its accounting books in accordance with the International Financial Reporting Standards (IFRS).

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Taxpayers must keep any information related to tax matters in general for a period of no less than five years from the end of the tax period.

10.8.2. Format of Archiving

The accounting and financial records may be made through information systems of the taxpayer's choice, however the taxpayer´s must guarantee the security and reliability of the registry of operations. (Resolution by the Tax Administrations Nº DGT-R-001-2013).

10.8.3. Place of Archiving

Article 110 of the Tax Code establishes that taxpayers must keep their accounting records in the tax domicile or in the place expressly authorized by the Tax Administration, without prejudice to their databases and systems in remote storage sites. , even outside the national territory, as long as its access is possible for inspection purposes and so it is notified to the Tax Administration.

10.9. Supporting documentation

Other than the above mentioned information, no other tax related information is required to be retained by the Taxpayer.

10.10. Tax period and VAT returns

GST is declared and paid on a monthly basis, within the first 15 calendar days of the month following the tax period to which it relates. Large taxpayers are allowed to submit their tax returns electronically.

10.11. Due Date for payment of VAT

The GST return is due within the first 15 calendar days of the month following the tax period to which it relates.

10.12. Refunds of VAT

When the difference between the debit and the tax credit is in favor of the taxpayer, the existing balance will be transferred to the following month or months and will be added to the tax credit originated by the acquisitions made in those months. If due to special circumstances, the taxpayer foresees that he does not have to originate, in the following three months, a sufficient fiscal debit to absorb the total balance of his tax credit, he will be entitled to request the refund or compensation of that credit.

10.13. Additional Reporting (statements)

There are no additional reporting requirements.

11. Auditing

11.1. Auditing

The Costa Rican Tax Administration carries out periodic auditing of Taxpayers, in accordance with the parameters established in the General Administration and Fiscalization Regulations.

11.2. E-Auditing

There are no specific provisions on this topic

12. Penalties and risks for non-compliance

12.1. Penalties

Penalty for no registration is 50% of one base salary (roughly USD 400) per month of no registration up to three base salaries (roughly USD 2.280).

The following penalties apply for default in tax payment:

- 50% based on the corresponding sanction.
- For those infractions that could be deemed as serious or very serious, according to the Law, and
- As long as the base for the sanction is equal or below 500 base salaries:
  - 100% over the entire base of the penalty, as appropriate.
  - 150% over the entire base of the penalty as appropriate.
- In case of late payment of taxes, it will apply 1% up to a maximum of 20% of that unpaid taxes.

12.2. Interest on late payments

Interest on late payments is determined by the Tax Administration on a yearly basis.

12.3. Joint Liability

There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

By virtue of the Law on the Strengthening of the Tax Management, No. 9069 which entered into force on September 28, 2012, the Code of Tax Norms and Procedures was amended, modifying the statute of limitations term previously ranging from 3 to 5 years, to a new term which ranges from 4 to 10 years.

It is worth clarifying that the longer term of the statute of limitations (the one modified from 5 to 10 years) applies to the cases in which taxpayers had not being registered before the Tax Administration, or where being registered, they have submitted statements qualified as fraudulent , or if they have not submitted them at all.

13.2. Recovery of VAT by the taxable person

The action to request the return or compensation prescribes after four years from the day following the date in which the payment was made, or from the date of presentation of the sworn statement from which the credit arose.

14. Rulings and Decisions

14.1. Rulings

The Code of Tax Rules and Procedures establishes a request for private tax ruling mechanism in which the taxpayer may request the Tax Administration for confirmation of the applicable tax treatment on any given specific GST issue. This ruling will be binding for the taxpayer and the Tax Administration. The Tax Administration has 45 working days to rule.

The Tax Administration periodically issues decrees and regulations in relation to GST. These may be binding to the taxpayer. Therefore, it is important for companies to maintain themselves informed of these decisions.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The Tax Administration has implemented the use of cross referencing of information in order to prosecute GST avoidance and fraud.

16. Other Rules

16.1. VAT withholding regimes

Public or private entities processing payments of credit or debit cards, must withhold GST from the supplier up to 6% of the net sale price, which will be considered as payment of GST on behalf the taxpayer.

16.2. Other regimes

- Simplified Regime: Individuals who are GST Taxpayers may choose to enter into the simplified GST regime, whereby a variable factor fixed by the Tax Administration is applied to their total taxable supplies and reported on a quarterly basis.
- Special Determination System of the Tax at the Factory, Wholesale and Customs Level:
- The Tax Administration has the power to fix the taxable basis and to order the collection of the tax at the factory, wholesale or customs level, on the sale price to the end retail consumer when the collection of the tax is difficult.
- Exempted purchases: GST taxpayers carrying out exempt supplies may request the Tax Authorities to authorize that supplies to the taxpayer are carried out free of GST.

- Currently there is a bill which proposes the value-added tax, therefore the General Tax on Sales Law, is hereby repealed. The rate will be the current 13 %. However, it establish a new reduced rate of 4% for the following Services: The purchase of packaging, as well as the raw material to produce the latter.
- Services used in the production of agricultural products, agroindustrial, aquaculture and non-sport fishing, sowing, harvesting, harvesting, fumigation, fertilization, mechanical and chemical control of weeds, transport, classification of products, land leasing, storage, storage , commercialization and services used in the production of agricultural, agroindustrial, aquaculture and non-sport fishing products.

Costa Rica

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Dominican Republic

1. Scope

ITBIS (Spanish acronym for “Impuesto a la Transferencia de Bienes Industrializados y Servicios”) is the Dominican VAT. This is a national tax.

The following transactions are subject to VAT:

• Transfer of industrialized goods;

• Importation of industrialized goods;

• Supplies of services.

2. Taxable Persons

2.1. Definition

The law establishes that taxable persons are individuals and/or legal entities (whether national or foreign) that perform any of the activities that are within the scope of the VAT law.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in the Dominican Republic.

3. Place of supply

3.1. Goods

The supply takes place where the goods are located when the supply takes place. Local supply of goods is taxable, regardless of where the contract was entered into or payment was made.

3.2. Services

The place of supply of services is where the services are performed. Services supplied by non-residents to local recipients are out of the scope of Dominican VAT, except if such party has a Permanent Establishment in the Dominican Republic.

4. Chargeable event, chargeability of tax

4.1. Goods

The taxable event occurs when the invoice or document which supports the transaction is issued, the goods are delivered; whichever occurs first.

4.2. Services

The taxable event in the case of supply of services arises when one of the following events occur (whichever comes first):

- The issuance of the invoice, or
- The completion of the service, or
- Partial or total payment of the service to be provided.

4.3. Imports

VAT is assessed and paid to the Customs Authority once the goods are imported and they are at the importer's disposition. The taxable event concurs with the Customs obligation payment.

4.4. Leasing

When the leasing agreement is signed, or the leased object is granted to the lessee. In case of long-term leasing contracts, at the due date for each installment or the payment of this, whichever comes first.

5. Taxable Amount

5.1. General Rule

VAT will be calculated as follows:

- For the supply of goods: net price of the supply plus additional services provided by the Supplier (transportation, packaging, charter fee, and interests on financing) plus any applicable excise taxes, less bonuses and discounts;
- For the supply of services: the price of the service excluding mandatory tip;
- For import of goods: the amount resulting for the application of Customs duties and any applicable excise taxes.

5.2. Exchange Rate Rules

There are no specific provisions on exchange rate; Central Bank exchange rates should be used instead.

5.3. Rounding Rules

There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate

Standard rate is 18%.

6.2. Increased Rate

There are no increased rates in the Dominican Republic.

6.3. Reduced Rate

Special rate of 16% applies to certain products belonging to the market basket of consumer goods.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

In principle, the exempt supplies would imply the application of restrictions to the deduction of input VAT, such as the right to deduct only a proportion of some of the input tax or a 100% non-deduction of the tax.

The main goods whose supply is exempt are the following (these are generic groups, but specific tariff item numbers should be taken into consideration):

7.1.1. Goods

- Farming products in natural state;
- Fresh or frozen meat;
- Raw fish for popular consumption;
- Milk and its derivatives and honey;
- All the seeds used for crop purposes;
- Legumes, tuber (unprocessed) for massive consumption;
- Unprocessed fruits for massive consumption;
- Coffee (non decaffeinated)
- Cereals, wheat, grains;
- Products for milling;
- Seeds for oil, seeds for sowing, or animal food;
- Sausage;
- Mineral and natural water;
- Baby food, pastas and bread;
- Cattle supplies;
- Fuel;
- Pharmaceuticals;
- Pesticides, rat poison and other anti-rodents, fungicides, herbicides;
- Other supplies or capital goods for agriculture;
- Books and magazines;
- Educational material; and
- Wheelchairs and other equipment for the handicapped;
- Goods within the Free Zones (sales from Free Zones to the local market are taxable).

7.1.2. Services:

The following are exempt from this tax:

- Educational and cultural services;
- Health services;
- Pension and Retirement Plans;
- Financial services, including insurance;
- Ground transportation of people and cargo;
- Power, water and trash pick-up services;
- Leasing of housing;
- Funeral services;
- Beauty parlor services;
- Other non-taxed services:
  a. Services provided by public institutions provided these are inherent to the State and cannot be offered by third parties;
  b. Services provided to entities under a Free Trade Zone Regime;
  c. Services provided to embassies, consulates and international organizations exempt from this tax pursuant to international legislation;
  d. Services provided by Chambers of Commerce acknowledged by the Government;
  e. Export services.

Furthermore, tax holidays exist under different types of laws which grant specific exemptions from this tax (i.e. tourism incentive law, industrial incentive law, etc.). See section 7.2 below.

7.2. Exemption with right to deduct input VAT

- The export of tangible goods is subject to 0% VAT rate (this includes supplies to tax exempt regimes such as Free Trade Zones);
- Other supplies to exempt regimes (some applicable to tourism and industrial entities subject to the incentive regime);

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT, provided that it is attributable to VAT taxable transactions and some additional requirements are met. Input VAT generated at a start-up stage can also be recovered.

In the event that VAT input relates to both taxed and exempt transactions, if it is not possible to determine the percentage related to each of the activities, VAT input will be recoverable using a pro rata calculation. Bear in mind that some transactions will not be treated as exempt even when they are not subject to the tax (i.e. supplies to special regimes).

Input VAT to be recovered in no case should be related to the acquisition of goods and service that should be integrated or will be part of buildings.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

If transactions subject to VAT are carried out in the Dominican Republic, there should be a registration for VAT. However, in the case of foreign entities which supply services in the country, in practice the tax authorities do not claim the registration unless a permanent establishment arises.

No reverse charge mechanisms apply in the Dominican Republic.

9.2. Registration for taxable persons not established in the country

Please refer to VAT Liabilities above.

9.3. Application Procedure

Dominican legislation does not provide any registration mechanism for non-established businesses.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

Joint liability only applies to VAT withholdings applicable in certain cases.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

Legal entities or sole proprietors are obliged to account for VAT.

10.2. Registration

There is a tax registration ID which is used for all taxes (“Registro Nacional de Contribuyentes”-RNC).

10.3. VAT Identification Number

The RNC is used for VAT purposes and consists of nine digits.

10.4. Tax authorities

The VAT Administrator is the General Directorate of Internal Revenues (DGII, Spanish acronym for "Dirección General de Impuestos Internos").

10.5. Invoicing

10.5.1. Valid Invoice

Every supply must be documented on an invoice with a Fiscal Supporting Document Number (acronym in Spanish NCF). The NCF sequence is granted by the Tax Authorities upon request from taxpayers. non-compliance with this obligation triggers non-deductibility of the related costs/expenses incurred by the customer for Corporate Income Tax purposes and no right to credit the input VAT.

All supporting documents shall have the following printed beforehand:

- Its classification (whether it is an invoice, credit/debit note, etc.);
- Sequential number (NCF) used by the entity or the registry;
- Date of issuance;
- Tax ID number (RNC);
- Commercial name (as recorded in local IRS);
- Place of issuance;
- Number assigned by the DGII in the case of authorized publishing establishments;
- Information about the customer:
  a. RNC of the customer
  b. Legal Name
- Information about the good or service supplied:
  a. Description
  b. Quantity
  c. Measurement unit
  d. Code or numeric identification (i.e. bar code), if applicable
  e. In case the good or service supplied is VAT exempt, an "E" (for exempt) shall be placed at the left of the description
- Information about the value of the transaction:
  a. Unit price of the goods/services
  b. Transaction amount excluding applicable taxes
  c. Discounts, bonuses and other charges, if applicable
  d. Total value of the supply, including taxes
- Information on taxes: VAT, Excise Tax and any other applicable tax shall be indicated in a separate manner.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoices can be preprinted by an authorized printing services provider or by the taxpayer itself, as long as the above requirements (in the "Invoicing" section) are met.

10.5.3. Electronic Invoicing

Electronic invoicing does not exist in the Dominican Republic.

10.6. Credit notes and debit notes

Credit/debit notes shall follow the rules established under the "Invoicing" section. In addition, they should detail the NCF (invoice) that they affect. Creedit notes issued after 30 days from the related invoice date should not give right to recover the VAT.

10.7. Books and Accounting Registers/Records

Books must be kept up to date, in Spanish and in the local currency (Dominican pesos) and the books must be kept in the Dominican Republic for 10 years. The financial statements should be audited by independent accounting firms or by a certified public accountant.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The retention period for the books is ten years from the end of the tax period to which they relate.

10.8.2. Format of Archiving

Electronic files are allowed.

10.8.3. Place of Archiving

There is no provision in the law regulating the place where the records and books must be archived. However, the archive should be available within Dominican Republic upon authorities' request.

10.9. Supporting documentation

In order to support the transactions, taxpayers must keep all related documents.

10.10. Tax period and VAT returns

The tax period for the VAT is the calendar month and return is due within the first 20 calendar days of the month following the tax period to which it relates. In case of a holiday or weekend, the following business day.

VAT returns must be submitted electronically through the Tax Authority's website, using the access code that should be requested to the tax authority.

10.11. Due Date for payment of VAT

The due date for VAT payment is the same as the filing deadline.

10.12. Refunds of VAT

VAT is refunded to exporters of goods; or in the case of credits arising from VAT overpayment on imports and payments to local providers. Bear in mind that refunds are subject to approval by the DGII, prior to performing an audit, and in practice most expedited cases involve refunds to exporters. There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

A monthly purchases report (Form 606) should be submitted with details of local purchases. Input VAT not included in the report will be disallowed by the tax authorities.

11. Auditing

11.1. Auditing

Tax Authorities have three years (extended to five years if the taxpayer has not filed the tax return or if the tax authorities have notified the taxpayer of a tax audit) to perform audits related to the transactions carried out by the taxpayers.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Late filing has a penalty of 10% for the first month plus 4% on each subsequent month, calculated on the tax due.

12.2. Interest on late payments

1.10% interest is applied for each month from the due date.

12.3. Joint Liability

In case of VAT, the joint liability only applies to VAT withholdings applicable in certain cases. In principle, joint responsibility for tax obligations is imposed on boards of directors, administrators, trustees, liquidators, partners and third persons who facilitate tax evasion.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authorities

The statute of limitations for claiming the VAT by the taxpayer is three years from the due date, however it can be extended to five years as indicated above.

13.2. Recovery of VAT by the taxable person

If the credits are timely reported through the IT-1 Form, there is no limitation since the credits can be carried forward indefinitely. If the taxpayer does not report it, then the statute of limitation is three years.

14. Rulings and Decisions

Taxpayers are allowed to request rulings before the tax authorities to support specific transactions for tax purposes. It takes approximately two months to obtain a final resolution from the tax authorities. Rulings are binding for the requesting taxpayer.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The main measure undertaken by the authorities in the last few years is to implement a cross-information system consisting of:

- The control of invoices issued by the taxpayer through the implementation of the Fiscal Supporting Document System;
- The obligation for the taxpayers to submit to the Tax Authorities a report of the invoices issued and received from third parties;
- The electronic check of the information provided by third parties in their tax returns against the one submitted by the taxpayers.

16. Other Rules

Aside from withholding regimes and special exemptions, there are no other special regimes.

16.1. VAT withholding regimes

The VAT withholding regimes are:

- Payments for services supplied by individuals,
- Payments for goods sold by individuals (except if they issue the pre-authorized NCF),
- Payments for certain services supplied by entities (e.g. consulting, construction).

Dominican Republic
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Ecuador

1. Scope

In general terms VAT applies as follows, when performed within Ecuadorian territory:

- Supply of all goods (imported and produced locally) and services;
- Importation of goods and services.

2. Taxable Persons

2.1. Definition

Taxable persons are individuals and/or legal entities performing VAT taxable activities, such as the supply or importation of goods and services.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Ecuador.

3. Place of supply

3.1. Goods

The supply of goods manufactured or goods located in Ecuador are subject to VAT.

3.2. Services

VAT is due when services are rendered in the country by residents of Ecuador (entities or individuals) to other Ecuadorian persons or residents.

Services rendered abroad by foreigners to Ecuadorian residents are generally levied with VAT, as long as the benefit or use of the service takes place in Ecuador. The VAT amount must be self-assessed, and withheld by the resident taxpayer. The VAT paid must be considered as tax credit.

4. Chargeable event, chargeability of tax

4.1. Goods and Services

VAT applies on the sale or transfer of ownership of all movable assets as well as on the rendering of services subject to VAT by an entity or individual, on a regular basis.

4.2. Imports

Import VAT is due and payable once the goods are brought into Ecuadorian territory. In the case of services, VAT is due upon registration of the service cost/amount into the entity's accounting records.

5. Taxable Amount

5.1. General Rule

The taxable amount of goods or services supplied shall be the total value of the goods or services, including other taxes and costs related thereto. Adjustment on the taxable amount should be undertaken in the event that (i) discounts are given to customers and specified on the sale invoice, (ii) goods are returned, and (iii) interest or insurance premiums charges are applied on credit sales.

The taxable amount on imports is the CIF value of the goods plus any other taxes and customs duties levied by the Ecuadorian Customs Service.

5.2. Exchange Rate Rules

There are no specific provisions on this topic. However, any transaction is expressed in foreign currency may be converted into Ecuador's official currency (US Dollars) by applying the foreign exchange rate published by the Central Bank of Ecuador on the date in which the chargeable event takes place.

5.3. Rounding Rules

Current Ecuadorian legislation does not specifically provide rounding rules. However, in practice the VAT returns accept two decimal numbers. Consequently, the second decimal has to be rounded up (0.05 to 0.09) or down (0.01 to 0.04) when filing said tax returns.

6. Rates

6.1. Standard Rate

The current VAT standard rate is 12% applicable on the supply of goods, imported or produced locally, and on services supplied within Ecuadorian territory or imported. The VAT rate was increased from 12 to 14%, since June 2016 to May 2017 as tax measure due to a national emergency derived from an earthquake in April 2016.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

VAT at 0% applies on the transfer of certain goods and services. Please refer to Section 7 below for further details.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

VAT 0% applies (but is not limited) to the importation or transfer of the following goods:

- Agricultural goods and foodstuffs when they remain in their natural state.
- Goods refrigerated or packaged without further processing to alter their natural condition. This includes milk, meats, sugar, salt, bread, butter and margarine, flour, and cooking oil.
- Drugs, medicines and other pharmaceutical products, including raw materials used for their manufacturing.
- Fertilizers, insecticides, animal foods, and similar products, including the raw materials required for processing such goods.
- Agricultural machinery and equipment.
- Paper and books.
- Exported goods.

VAT 0% applies (but it not limited to) the following services:

- Transportation of persons (other than air transportation), transportation of cargo; (other than local air transportation of cargo);
- Health, educational (including child care), religious, funeral services;
- Book printing services;
- Rental of dwelling (housing);
- Water, electric, sewage and other public services including waste collection; and, of irrigation and drainage foreseen in the Organic Law of Water Resources, Uses and Use of Water;
- Exported services;
- Road tolls;
- Aerial fumigation and refrigeration services related to the conservation of foods staples, as well as certain food processing services;

The following transactions are exempted from VAT:

- Contributions in kind to capital of companies;
- Inheritance and assets arising from liquidations of companies;
- Transfer of business ongoing concern;
- Joint Ventures, mergers, acquisitions, take-over, and spin-offs;
- Donations to public entities and non-profit organizations; and
- Transfers of shares and securities.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

The export of goods and services is zero-rated. The exportation of services is zero-rated provided that such services are used outside Ecuador and the related costs are not charged to an Ecuadorian entity.

8. Deductions

8.1. VAT Recovery

VAT paid on the local acquisition of goods and services or on the importation of goods used for the manufacturing or supplying of goods or services taxed at 12% can be recovered and offset directly as a tax credit on sales taxed at a 12% rate. The VAT paid on new raw materials (or components required in the production of goods or supply of services) are also creditable when the final product is deemed taxable at 12%.

Where VAT is paid on fixed assets that are required in the production and supply of taxable goods or services taxed at 12%, the tax amount can also be recovered.

Finally, any VAT paid on raw materials, components or fixed assets necessary for the production of exported goods is also recoverable.

VAT may not be recovered (by either tax credit or other means) on the local acquisition or importation of goods and services that are

used for the production of goods or services taxed at 0% VAT. In these cases, non-recoverable VAT becomes part of the purchased goods and services cost.

Proportional VAT recovery (tax credit) is allowed on the purchases of goods and services levied with 12% VAT used for the sale of goods and services levied with 0% and 12% VAT; the calculation of the proportional tax credit shall be based on the sales 'amount.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT purposes provided that they operate through a permanent establishment in Ecuador or if they carry out its activities in Ecuador through a local establishment.

9.2. Registration for taxable person not established in the country

Ecuadorian legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure

There are no specific rules on this topic.

9.4. VAT Registration: Simplification

There are no specific rules on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier in taxable transactions is the person liable to account for the VAT due.

In the event where the supplier of services is a non-resident, the Ecuadorian entity receiving or using the services must self-assess (reverse-charge) the VAT due on the transaction.

When VAT withholding applies, withholding agents are liable to account for the VAT withheld.

10.2. Registration

Resident businesses should register and obtain a tax identification number ("Registro Único de Contribuyentes" – RUC for its Spanish acronym) which is currently used solely for tax purposes.

10.3. VAT Identification Number

Currently, there is no VAT specific identification number. The aforementioned RUC is used for VAT compliance. The RUC identification number contains 13 digits.

10.4. Tax authority

Currently tax legislation states that the Ecuadorian Internal Revenue Service ("Servicio de Rentas Internas" – SRI for its Spanish acronym) is responsible for the administration of VAT, and thus, it enables this entity to perform VAT tax audits. If liabilities are identified as a result of an audit, the SRI is entitled to assess unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Taxpayers are required to issue invoices for supplies of goods or services in local currency (US dollars), regardless of whether the transfer involves a sale or a gratuity. The VAT amounts must be listed separately on the invoices.

Invoices must comply with the corresponding invoice regulations and should include at minimum, the following data:

- Name, address, telephone number, and tax identification numbers of the supplier and purchaser of goods and services.
- The transactions amount VAT due (and its corresponding rate) and the total amount payable.
- Description of the services supplied or goods sold.
- It must contain the corresponding invoicing and printing authorization number as issued by the tax authorities.

In addition, the invoice form should be printed by a duly authorized printing entity or by the taxpayer itself (following a specific format and dimension (i.e., size). The tax authorities must grant the corresponding authorization to the printer prior to them issuing the invoice forms. The invoice form must include certain information such as the expiration date which is pre-determined by the tax authorities as well as other mandatory information required by the Ecuadorian legislation.

It should be noted that the invoices generally have a validity term of one year from their printing date. Accordingly, they must be used prior to their expiration in order to be valid for tax purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Self-billing is required only in the event of self-consumption.

There are no provisions related to outsourcing the issuance of invoices.

10.5.3. Electronic Invoicing

Electronic invoicing in Ecuador is mandatory since January 2015 for most taxpayers, which includes special taxpayers, finance institutions, exporters, and taxpayers that made internet sales online. The obligation applies solely for transactions that support tax credit for VAT purposes.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or a debit note. These documents should be issued following the same requirements applicable to the invoice/receipt to which they are related.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records

Taxpayers must keep all accounting records (i.e., general ledger, reports, etc) and corresponding supporting documentation (i.e., invoices, receipts, contracts, reports, etc) for at least seven years.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

For VAT compliance, accounting records and supporting documents must be stored for at least seven years.

10.8.2. Format of Archiving

There is no specific format of archiving.

10.8.3. Place of Archiving

Accounting records must be stored at the company's domicile. However, external storage facilities are not prohibited and are commonly used.

10.9. Supporting documentation

There is not specific regulation related to the supporting documentation for invoices.

10.10. Tax period and VAT Returns

Taxpayers must file VAT returns on a monthly basis. The due date for the submission of the VAT returns is determined by a specific tax calendar set out by the Tax Authorities. This calendar assigns a specific filing date between the 10th and the 28th of the month, and is based on the ninth digit of the taxpayer's tax number (RUC).

10.11. Due Date for payment of VAT

VAT must be paid within the following month after the end of the tax period being reported and by the filing due date established in the corresponding calendar.

10.12. Refunds of VAT

Exporters and their suppliers can apply for a VAT refund before the Tax Authorities.

There is not VAT refund mechanism for non-resident businesses. VAT withheld in excess to the tax payer is also refundable.

10.13. Additional Reporting (statements)

VAT taxpayers are required to file an additional monthly report known as "Simplified Transactional Annex". The filing deadline for this annex is determined according to the aforementioned tax calendar.

11. Auditing

11.1. Auditing

According to the Tax Code, the Tax Authorities are enabled to audit three years backwards. However, this period may be extended to six years when the corresponding taxes have not been totally paid or only partially paid.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Penalties for late filing of VAT returns are levied at 3% over the tax payable per month or partial month the return is late, without ever exceeding 100% of the tax liability due. In addition, regular interest rates are also assessed, based on interest rates set quarterly by the Tax Authorities.

The lack of issuance of bills of sale or invoices, as well as non-payment of VAT collected or withheld to the Tax Authorities is considered tax fraud and can be deemed as a criminal offence by the company's legal representatives and may also involve the foreclosure of the corresponding business establishment.

Issuing invoices or other documents without the proper authorization is subject to a penalty up to USD 333. If the breach is verified by the Tax Authorities, the penalty may include the foreclosure of the establishment.

12.2. Interest on late payments

Interests due on late payments are levied at the quarterly rate assessed and published by the Tax Authorities.

In cases where an exporter files a VAT refund which is not appropriate or it's false, said taxpayer will be penalized with a fine amounting to up to two times the VAT amount refunded or requested to be refunded.

12.3. Joint Liability

In the case of any tax fraud, the legal representative, accountant, finance director and all other management staff responsible for overseeing the economic activity are deemed jointly responsible.

13. Statute of Limitations

13.1. Recovery of VAT by the taxable authorities

The Tax Authorities are enabled to review up to 3 years backwards. The period can be extended up to 6 years provided specific circumstances are met.

13.2. Recovery of VAT by the taxable person

Taxpayers can claim refunds of VAT within 5 years.

14. Rulings and Decisions

Decisions issued by the Tax Authorities are binding for individuals or entities requesting them, but are deemed merely informative for other taxpayers.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

There are no specific provisions on this topic.

16. Other Rules

16.1. VAT Withholding regimes

Certain companies qualified by the Tax Authority as “Special Taxpayers” are also designated as VAT Withholding Agents.

As withholding agents, these entities are required to withhold VAT from other entities and individuals as follows:

- 30% of VAT on purchases of goods taxed at the 12% rate,
- 70% of VAT on the acquisition of services taxed at the 12% rate, except in the case of services supplied by professionals where 100% of the VAT charged must be withheld.

For transactions levied with 12% VAT carried out between two companies qualified as “Special Taxpayers”, VAT withholding rates shall be applied as follows:

- 10% of VAT on purchases of goods.
- 20% of VAT on the acquisition of services.

Withholding agents are also obliged to register the withheld taxes in their accounting record. They must file a return and pay the withheld taxes on a monthly basis. In payments made to individuals, all companies and individuals obliged to keep accounting books, must withhold the VAT due.

Ecuador
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El Salvador

1. Scope

According to the Salvadoran VAT Law or LITBMPS (Spanish acronym for "Ley de Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios"); the following transactions are subject to VAT when performed within the Salvadoran territory:

- Transfer of tangible movable goods;
- Supply of services of any type whether permanent, regular, continuous or periodical;
- Withdrawal of tangible movable goods from the inventory made by the company for self-consumption by its partners, directors or personnel; and withdrawal of services by the company for self-consumption;
- Import or internment of goods and services; and the;
- Export of services or goods.

2. Taxable Persons

2.1. Definition

Persons subject to VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law. Regarding individuals, they are not required to register for tax purposes if the activities in the past twelve (12) months do not exceed the amount of USD 5,714.29 and the total assets are less than USD 2,285.71.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in El Salvador.

3. Place of supply

3.1. Goods

The transfer is subject to VAT when the movable goods are located or registered in El Salvador, notwithstanding the fact that these goods are located abroad temporarily; and even when the acts, agreements or contracts are granted in another country.

Goods that are shipped from the country of origin are considered to be located in El Salvador, when transferred to non-taxpayers acquirers.

3.2. Services

Services are subject to VAT if they are supplied in the country, notwithstanding the fact that the acts, agreements or contracts are granted abroad, and irrespective of the place of payment.

The service is deemed to be supplied in El Salvador if the activity generating the service is performed in the country.

3.3. Self-consumption

Withdrawal of tangible movable goods from the inventory made by the company for self-consumption by its partners, directors or personnel is subject to VAT.

Withdrawals of personal property for raffles, sweepstakes or free distribution for promotional, advertising or advertising purposes, whether or not the company turns, made by the VAT taxpayers, are also subject to VAT.

3.4. Import or internment of goods and services

There is an import or internment of services when the activity generated by the service is developed abroad and the service is provided to a user domiciled in El Salvador that uses it in El Salvador.

3.5. Export of services or goods

The following are deemed exportations:

- In the case of movable goods, those destined for use and consumption abroad;
- In the case of services, those supplied in the country in favor of non-established entities, used and enjoyed exclusively abroad.

4. Chargeable event, chargeability of tax

4.1. Goods

With respect to the transfer of movable goods, the chargeable event occurs when the invoice supporting the transaction is issued. Otherwise, the chargeable event will occur when the price is paid or the movable goods are delivered.

The tax applies even in the case of a default in payment.

4.2. Services

The tax arises in any of the following circumstances, whichever occurs first:

- When the invoice is issued;
- When the service is completed;
- In the case of a lease agreement, when the leased property is provided to the lessee;
- If the service includes a project, when the service is completed; and
- When the price agreed is totally paid, or for each partial payment.

Self-consumption

The tax arises on the date of withdrawal.

4.3. Import or internment of goods and services

In the case of movable goods, the chargeable event occurs at the moment of import or internment.

Regarding services, in any of the following circumstances, whichever occurs first:

- When the invoice is issued;
- When the payment is made;
- When the service is completed;

In the case of temporary importation of goods, the chargeable event occurs when the goods are released for free circulation in the local market.

5. Taxable Amount

5.1. General Rule

As a general rule, the taxable amount is the price or remuneration agreed upon by the parties. For imports or internments, the taxable amount is the customs value.

Adjustments to the taxable amount are permitted and will take effect in the period in which they occur, provided these are duly supported with the corresponding invoice, credit or debit notes.

5.2. Exchange Rate Rules

The US Dollar is the legal currency in El Salvador. If the taxable amount stated on the invoice is expressed in another currency, it should be converted into US Dollars.

5.3. Rounding Rules

There are no rounding rules established by law.

6. Rates

6.1. Standard Rate

The standard rate is 13%.

0% for export of services or goods. (Go to section 7.2)

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following imports shall be exempt from the VAT:

- Imports made by diplomats and consulate representatives of foreign nations with presence in the country according to international agreements adopted by El Salvador;
- Imports made by international organizations to which El Salvador is a party;
- Traveler's luggage according to customs legislation;
- Donations to non-profit organizations;
- Imports made by municipalities, if the goods imported are for the public benefit of the community;
- Imports of machinery by taxpayers duly registered for this purpose which will be part of the taxpayer's fixed assets.
- Vehicles for public transportation, which can only be transferred after five years.

The following services shall be exempt from the VAT:

- Health services supplied by public institutions;
- Lease and sub-lease of real estate properties for housing;
- Services supplied under a labor relationship, and those supplied by public and municipal employees;
- Cultural public performances authorized by competent authorities;
- Educational services;
- Interest on deposits and loans, provided by local financial institutions or non-domiciled financial entities registered at the Salvadoran Central Bank (BCR);
- Interest on securities issued by the Government and/or private entities traded through a stock Exchange;
- Water supply by public institutions;
- Public transportation; and

- Insurance premiums covering individuals, and re-insurance in general.
- Contributions made to pension funds.

The following goods shall be exempt from the VAT:

Books, newspapers, magazines and other types of literary works whose purpose is diffusion of ideas.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

The export of goods and services is subject to a 0% VAT rate.

8. Deductions

8.1. VAT recovery

VAT paid by a registered taxpayer in El Salvador on its purchases (tax credit) is credited against VAT collected/charged to its customers (tax debit), on a monthly basis.

Where a tax credit relates both to transactions within the scope of VAT and to exempt transactions, such tax credit will be recoverable using a pro rata calculation.

9. Person liable to pay VAT-non established taxable persons

9.1. VAT Liabilities

The Branch or the Permanent Establishment in El Salvador are required to obtain VAT registration.

9.2. Registration for taxable persons not established i n the country

Non-domiciled (persons or entities) that perform taxable events in El Salvador should pay VAT through a VAT withholding that is made by the Salvadoran recipient. In that cases the non-domiciled does not required VAT registration.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier of goods and/or services is the person that is liable to charge and account for VAT on its transactions, except in the case of imports of intangible goods and services when the supplier is a non-established entity. In this case, VAT is self-assessed by the local taxpayer registered for VAT purposes.

Withholding agents are also obliged to account for withheld taxes in their records and must file a return and make payments on a monthly basis.

10.2. Registration

Companies duly incorporated according to the Salvadoran law, as well as branch or permanent establishment in El Salvador, must obtain a VAT registration number (NRC) in El Salvador.

The procedure to obtain a VAT registration (NRC) in El Salvador is as follows:

- Complete and file Form F-210 at the tax authorities' offices;
- The legal representative of the company must sign the Form and attach the documentation stating his legal capacity;
- Attach a copy of the Articles of Incorporation (By-laws) of the company, and a copy of the ID document of the legal representative;

10.3. VAT Identification Number

The taxpayer registration number ("Número de Registro de Contribuyente"- NRC) is used for all VAT tax purposes in El Salvador and it is provided by the Salvadoran Tax Administration at the moment of the registration.

10.4. Tax authority

The General Directorate of Internal Revenue ("Dirección General de Impuestos Internos"DGII) is the government body responsible for the administration of the VAT in El Salvador, and the General

Directorate of Customs ("Dirección General de Aduanas"-DGA) in case of imports.

The DGII and DGA are part of the Salvadoran Tax Administration (Ministerio de Hacienda).

10.5. Invoicing

10.5.1. Valid Invoice

Before the invoice are printed the tax payer should require to the tax administration the authorization of correlative numbering. The requirements established by the Salvadoran Tax Code regarding the invoices are:

- Printed in a book numbered correlatively by an authorized printing-office;
- Issued in triplicate;
- The complete legal name, economic activity, address of the business, and tax registration number of the issuer of the invoice. This information also applies to the party acquiring the goods or services;
- Date of issuance;
- Description of the goods and services acquired, including the price per unit;
- The amount of VAT charged, separately stated;
- Number and date of the authorization issued by the tax authority for the correlative numbers.

Invoices are issued in US Dollars, as currently this is the legal currency in El Salvador. Invoices issued by non-established entities in El Salvador are not required to fulfill such requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoice formats must be printed by authorized printing houses or by electronic means if the tax authorities grant the taxpayer permission for this purpose.

In any case, taxpayers must request the assignment of the correlative numbers to print the legal invoices from the tax authorities.

10.5.3. Electronic Invoicing

Taxpayers with electronic invoicing systems are required to send on-line to the Tax Administration server the amounts of each transfer of goods or supply services, accounting records and VAT control Books related information.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or a debit note. These documents should be issued following the same requirements applicable to the original legal invoice (in Spanish "Comprobante de Crédito Fiscal"CCF) that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records

Both the Salvadoran Commerce Code and the Tax Code prescribe the principal accounting books to be maintained by companies. The books and records normally required are:

- General Ledger
- Financial Statements Book;
- Purchase book for VAT purposes;
- Sales book with final consumers and detail of exports;
- Sales Book with VAT registered taxpayers; and
- Other special records and files required for VAT control.

These books must be authorized by the external auditor or by the Salvadoran Registry of Commerce, and each page must be numbered and then stamped with the seal of the public accountant.

According to the Commerce Code, all records must be in Spanish, and all accounts recorded in Salvadoran Colones or US Dollars. In practice, accounts are recorded in US Dollars since it is the legal currency in El Salvador.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The retention period is ten years from the issuance or reception of the corresponding information or document.

10.8.2. Format of Archiving

Paper copies should be archived, and electronic media (i.e., microfilm and discs) are also permitted but only after four years the document was issued.

10.8.3. Place of Archiving

According to the Salvadoran Commercial Code, the accounting records must be kept in El Salvador, even for branches, agencies or subsidiaries of foreign companies.

10.9. Supporting documentation

Taxpayers duly registered for VAT purposes in El Salvador are required to retain all the necessary information/documentation (i.e. invoices, credit notes, etc.) to support the nature and truthfulness of their transactions and tax deductions. Otherwise, tax authorities may challenge taxes paid and/or determine additional taxes, interest and penalties, as applicable.

10.10. Tax period and VAT returns

Taxpayers duly registered for VAT purposes in El Salvador must file monthly VAT returns (Form F-07), irrespective of whether they have performed taxable transactions or not, or even if there is no VAT payable in that particular month. VAT returns can be filed electronically through the Tax Authority's website.

The VAT return is due by the 10th working day of the month following the tax period to which it relates.

10.11. Due Date for payment of VAT

The VAT must be paid on the same date as the return filing.

10.12. Refunds of VAT

Salvadoran legislation provides a refund of VAT associated with export operations.

Otherwise, local VAT registered taxpayers obtain a credit where input VAT exceeds output VAT at the end of each monthly period, carried over to subsequent periods until it is completely deducted.

There is no refund mechanism for resident or non-resident businesses.

10.13. Additional Reporting (statements)

Taxpayers must also file a monthly VAT report on tax withheld to third parties.

10.14. Other measures

A taxpayer registered for VAT purposes must inform the tax authorities on the closing of its business and about the legal invoices which will remain unused and request deregistration from the system.

11. Auditing

11.1. Auditing

The tax authorities are entitled to perform audits to ensure tax compliance and revenue collection. This is done by reviewing the taxpayers accounting records and tax returns.

The tax authorities may also request information from third parties. As a consequence of an audit tax authorities are entitled to determine the tax liability of the unpaid tax and fix the amount of additional taxes to be paid, including tax interest and penalties.

11.2. E-Auditing

The tax administration uses error indicators in the tax returns for electronic audit procedures, crossing information among the taxpayers. If differences are determined, the taxpayer is encouraged to voluntarily make the amendments/corrections applicable in a specific period of time.

12. Penalties and risks for non-compliance

12.1. Penalties

According to the Salvadoran Tax Code the following penalties would apply:

- For late registration: two monthly minimum salaries (explained below);
- For no registration: three monthly minimum salaries (explained below);
- For late payment: from 5 to 20% applicable over the tax paid late, depending on the delay period.
- In case of no payment: 50% of the tax due.

The current monthly minimum salary in El Salvador is roughly USD 304. This amount may change every fiscal year.

12.2. Interest on late payments

The current annual interest rate for late payments is the following:

- Less than 60 days: 6.16%
- More than 60 days: 10.16%

This interest rates are subject to change every six month.

12.3. Joint Liability

According to the Salvadoran Tax Code, joint liability operates, among others, in the following cases:

- For legal representatives of individuals and companies including collective entities with no legal personality (parents, board of directors);
- Local contractors of cultural and/or sport performances taking place in the country;
- For new owners of companies;
- Transactions subject to VAT made on behalf of a third party.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The statute of limitations is three years from the date on which the VAT return was filed, and five years if tax returns have not been filed.

13.2. Recovery of VAT by the taxable person

Taxpayers may recover VAT balances during a two year period from the date on which the tax return and payment was due.

14. Rulings and Decisions

14.1. Rulings

Taxpayers may request binding tax rulings from the tax authorities on the application of the VAT law to specific transactions.

14.2. Decisions

Following a written notification of any tax determination, which may include assessment of additional taxes or penalties, the taxpayer may appeal before the Appeal Court of Internal Taxes and Customs ("Tribunal de Apelaciones de los Impuestos Internos y de Aduanas"), within a period of 15 working days after such notification. This Appeals Court is a part of the Ministry of Treasury, but with respect to its functions, it operates independently of the Tax Authorities. In any case, the Appeals Court must issue its final resolution within a period of 9 months after the petition is filed.

Taxpayers may lodge an appeal against an adverse Appeal Court decision to the Supreme Court of Justice. Taxpayers have 60 calendar days after notification of the Appeals Court decision, to file an appeal before the Administrative Chamber of the Supreme Court.

The last recourse in case of any constitutional violation would be the Constitutional Chamber of the Supreme Court.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The tax authorities created the Transfer Pricing Unit, with the aim to track “tax avoidance” schemes and to fight tax, including VAT, fraud.

16. Other Rules

16.1. VAT withholding regimes

VAT must be withheld when a Salvadoran resident receives services from a non- resident in the country. The withholding of the tax must be made by the Salvadoran company at the moment of collecting the consideration and then paid to the tax authorities together with the corresponding monthly tax return.

In addition, companies having the status of Large Taxpayers (“Grandes Contribuyentes”) will act as withholding agents when acquiring goods or receiving services from other taxpayers not having this status. The withholding rate applicable in this case would be 1%of the transaction price.

Large taxpayers importing beverages, tobacco and other specific products, must also withhold 1% of VAT on supplies of such products to other taxpayers not having this status. 16.2. Other regimes VAT advance payments at a rate of 2% of the transaction price, must be declared and paid by VAT registered taxpayers receiving payments through credit cards. For this purpose, the issuers/administrators of the credit cards will act as withholding agents.

El Salvador

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Guatemala

1. Scope

The following activities are subject to VAT:

- The sale or exchanges of movable goods or its rights;
- Supplies of services;
- Importations;
- Rental of movable and immovable property;
- The assignment of movables or real estate by way of payment, except when made to distribute inherited real estate or when an undivided property is terminated;
- The withdrawal of movable property by taxpayers or owners, partners, directors or employees of a company for their own or their family's personal use, or the self-supply of services, regardless of the nature of the company.
- The destruction, loss or any other fact implying inventory shortages, except for perishable goods, fortuitous events, force majeure or crimes against the patrimony;
- The sale or exchanges of immovable property[1];
- Inheritance of movable or immovable property; and
- Contribution of chattel to companies.

1 VAT is only applicable on the first sale of real state; the subsequent sales are taxed with stamp tax at a 3% rate.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law.

The following shall also be subject to the tax:

- Importers (whether, recurring or not);
- The recipient of the goods or services, when the supplier is not established in Guatemala;
- Civil, mercantile, irregular and de facto business association concerns, and joint-properties, except for common property inheritances.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Guatemala.

3. Place of supply

3.1. Goods

In the case of goods dispatched or transported, the place of supply is deemed to be the place where the transport begins. In the case of goods not dispatched or transported, the supply takes place where the goods are when the supply takes place.

Supply of goods is defined as any act or contract whereby full or partial title over movables and real estate located in the national territory, or rights thereon are conveyed for a consideration, irrespective of the designation provided them by the parties there under and the place where the respective act or contract are executed.

3.2. Services

VAT will only be applied on services rendered within Guatemala.

Service is defined as any action taken or work done by an individual for another for a fee, interest, premium, commission or any form of remuneration provided no dependence relationship exists between the parties.

4. Chargeable event, chargeability of tax

4.1. Goods and services

The general rule is that a VAT chargeable event occurs when the consideration for a supply is paid (whether totally or partially), including deposits, payments in advance or any other delivery that may be construed as payment for the supplier or when the invoice is issued.

4.2. Imports

On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of imported of services and intangible goods, the chargeable event occurs when the VAT is effectively paid.

5. Taxable Amount

5.1. General Rule

The taxable amount for VAT purposes is the gross price paid for the transaction.

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate corresponding to the date in which the supply took place.

5.3. Rounding Rules

There are no rounding rules for reporting tax. However, in practice, formats do not allow to report decimal positions.

6. Rates

6.1. Standard Rate

The standard rate is 12%.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

7.1.1. General exemptions

According to local legislation, the following shall be VAT exempt:

• The imports of tangible goods made by:

- Cooperatives, federations and cooperative confederations, legally established and registered, on the import of machinery, equipment and other capital goods directly and exclusively related to the cooperatives', federations' or confederations' activity or service;
- Individuals or entities protected by a temporary import regime;
- Passengers entering movable goods into the country as part of their baggage, for which they are not required to pay any import duty under Customs laws;
- Guatemalan diplomatic and consular officers and employees returning to the country upon completion of their mission with respect to household and personal items and a vehicle;
- Diplomatic and consular missions accredited before the Government of Guatemala as well as the individuals referred to by the Vienna Convention on Diplomatic and Consular Relations, provided that the countries represented by such missions and persons provide an reciprocity to Guatemalan missions;
- International entities as provided by the respective agreements signed by them and the Government of Guatemala;
- Exports of goods and services 2;
- Transfer of personal tangible property and other properties in the following cases:
- Mergers;
- Inheritances, legacies and donations due to death;
- Contribution of chattel to companies;
- Contribution of property to companies (This contribution shall not be exempt whenever the contributed property has previously been contributed as a whole or in part to an outfit whose business is to develop real estate.);
- Services provided by entities subject to surveillance by the Superintendent of Banks and exchange bureaus authorized to operate in the country. With respect to insurance and bonding activities, the exemption does apply only to reinsurance and rebounding transactions;
- The cooperatives shall not charge VAT on supplies made to their members, cooperatives, federations, service centers and cooperative confederations;
- The tax shall be charged on transactions with third parties. Any VAT paid by cooperatives to their suppliers shall qualify as a tax credit for the former.
- Services supplied by saving and loan cooperatives to both their members and third parties shall be exempt from VAT;
- The creation, issuance, circulation and transfer of credit instruments, securities and stocks of any type, except exchange invoices, whenever their issuance, acceptances or negotiation related to taxable transactions;
- Interest on credit instruments and other obligations issued by mercantile concerns and negotiated through exchange bureaus duly authorized and registered;

- Organization of trust funds and the refund of the assets in trust to the trustor the taxable transactions undertaken by the trustee shall be subject to VAT;
- Contributions and donations given to legally and duly registered organized not-for-profit associations, foundations and educational, cultural, social or service assistance, and religious institutions;
- Enrollment fees and periodical dues paid to social, guild, cultural, scientific, educational, and sport associations or institutions, as well as professional associations and political parties;
- Retail supply of meats, fish, seafood, fresh fruits and vegetables, cereals, legumes and basic grains to ultimate consumers in village and municipal markets, provided such supplies do not exceed GTQ.100.00 per transaction (roughly USD 12);
- Sale of housing units with a maximum 80 square meters construction whose value does not exceed (GTQ 250,000/US$ 31,250) and for urbanized land lots, which include basic services, with a maximum 120 square meters area, under certain conditions, whose value does not exceed (GTQ 120,000/US$ 15,000).

2 Exportation of services is defined as services supplied in the country, subsequent to fulfilling the relevant legal procedures, to recipients not established in Guatemala for their exclusive use and enjoyment abroad.

- Services provided by legally authorized not-for-profit associations, foundations and educational, cultural, social or service assistance, and religious institutions that in no event distribute profits among their associates and members.

7.1.2. Specific tax exemptions

The following shall not charge VAT:

- Public and private educational centers with respect to enrollment fees, dues, exam fees and land transportation provided to their students, whenever this service is not furnished by third parties;
- Universities legally authorized to operate in the country;
- The Autonomous Sports Confederation ("Confederación Deportiva Autónoma") of Guatemala and the Guatemalan Olympics Committee;
- The Guatemalan Social Security Institute;
- Diplomatic and consular missions accredited before the Government of the Republic of Guatemala as well as the diplomatic agents, officers and employees;
- International entities which, as provided by the respective agreements signed by them and the Government of Guatemala, have been extended tax exemptions.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met.

As of February 25 2012, VAT generated by the invoices issued from tax payers registered as "small" tax payers by Tax Authorities does not generate VAT credit.

For tax effect purposes, the base for computing tax debits shall be the merchandise or services selling price, net of any discounts provided.

In the event a taxpayer bills average selling prices below purchase or manufacturing costs, within a three-month period, SAT may determine the relevant tax debits base by considering the selling prices of the same products charged in other taxpayer or taxpayers' transactions within the same period, except when the taxpayer does justify and demonstrate the reasons behind this situation and provides bank and financial data proving its actual income.

As for public spectacles, theater and similar ones, taxpayers shall issue the corresponding invoice where the tickets price is not lower than the spectacle cost to the public, as the event's seats price may be.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to be established in Guatemala for VAT and commercial purposes.

However, it is necessary to establish in Guatemala when performing specific activities for an undetermined amount of time.

9.2. Registration for taxable persons not established in the country

Only individuals established in the country can register before the tax authorities. Companies cannot register unless they are incorporated in Guatemala.

The registration takes place when obtaining an Administrative Tax Identification Number. Permanent establishment rules were introduced as of January 1, 2013.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is liable to charge and account for the VAT on its transactions, except for the import of services or intangible goods, in which case VAT is self-assessed by the local recipients.

Withholding agents are also obliged to account for withheld taxes in their records and must file a return and make payments on a monthly basis (Please refer to the "VAT withholding regimes" section of this chapter).

10.2. Registration

Resident businesses should obtain a tax ID number, which is used for all tax purposes (including VAT).

10.3. VAT Identification Number

The Tax ID Number ("NIT" in Spanish) is used for all tax purposes (including VAT). This tax ID number consists of a number of digits which identify the company or individual person and a control digit. Example: 999999-9.

10.4. Tax authority

The Tax Administration Office ("Superintendencia de Administración Tributaria"- SAT) is responsible for the administration of all taxes, including VAT.

SAT is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are raised as a consequence of an audit, SAT is entitled to issue assessments for unpaid taxes and apply the corresponding tax penalties according to the Guatemalan Tax Code.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices must contain the following information:

- Type of document: Invoice, credit note or debit note
- Number (per type of document)
- Serial number
  (different per each trade establishment of the taxpayer)
- Name and trade name of the supplier
- Tax ID number of the supplier
- Address of the trade establishment or office from where the document is issued
- Date of issuance
- Name of the recipient
- Tax ID number of the recipient. Where it does not have one, the legend “Consumidor Final” (Spanish for “Final Consumer”) should figure in the invoice.
- Description of the supply, and the respective values
- Any discounts and charges applied as a result of the transaction
- Total price of the transaction, including VAT
- The taxpayers subject to VAT are required to issue and deliver invoices to their customers and such shall in turn obtain the following documentation:
- Invoices for the supplies, including non-taxed transactions;
- Debit notes for any price increases or surcharges over transactions already billed;
- Credit notes for any returns, annulments or discounts over transactions already billed; and
- Any other documentation, which in specific and duly justified cases, SAT requires in order to facilitate the taxpayers’ timely compliance with the tax obligations.
- Upon request, the tax authorities may allow the issuance of the invoices through mechanized or electronic systems (i.e. electronic cash registers). The use of such systems will depend on the activities of the taxpayer requesting the authorization (i.e., volume, size, value, etc).

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoice forms must be printed by an authorized printer or by electronic means. The tax authority should authorize both.

Outsourcing for the issuance of invoices is permitted by law. Self-billing is allowed under specific circumstances.

10.5.3. Electronic Invoicing

Electronic invoicing is allowed under specific circumstances.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the amended invoice. These documents can only be issued on the two months following the date of issuance of the regarding amended invoice.

10.7. Books and Accounting Registers/Records

Taxpayers must maintain books and accounting records of transactions.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention period

Records have to be kept for four years from the date on which the return to which they relate should have been filed.

10.8.2. Format of Archiving

The Archive can be in electronic form, but paper records are necessary in case of a file inspection by the tax authorities.

10.8.3. Place of Archiving

The books and general ledgers shall be maintained at the taxpayer's registered address or that of their registered accountant.

10.9. Supporting documentation

Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, the tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns

Tax period in Guatemala runs from January 1st to December 31st.

Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions or not. VAT return is due before the end of the month following the tax period to which it relates. Taxpayers may file tax returns electronically, through the banks' websites.

10.11. Due Date for payment of VAT

The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT

Local businesses can obtain a tax credit where input VAT exceeds output VAT. Refund takes place only for exporting businesses or when selling goods or services for exempts. There is no refund mechanism for nonresident businesses.

10.13. Additional Reporting (statements)

There are no additional reporting requirements.

11. Auditing

11.1. Auditing

Tax Auditing is carried out by tax field inspectors on a random basis. Taking as a point of reference the income tax paid on the revenues.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

As an indirect tax, the penalties for late payments range from 50-100% of non-paid tax plus interest.

12.2. Interest on late payments

Annual interest rate on late payments ranges from 12 to 15%.

12.3. Joint Liability

There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

Statute of limitations is four years from the due date, according to the Tax Code of Guatemala.

13.2. Recovery of VAT by the taxable person

Statute of limitations is four years. However it can be extended in special cases.

14. Rulings and Decisions

Tax Rulings are not regulated in Guatemala; however a tax consultation may be submitted to the tax authorities in case of doubts regarding tax payment or the application of tax regulations. Answers from the Tax Authority will only be binding to the requestor.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The tax authorities have an online system which enables them to review input and output VAT or other taxes. Where any doubt arises, a field inspection can take place.

16. Other Rules

There are special regimes that establish VAT exemptions (depending on the activities performed by a company). To qualify for this regime, the company must submit the corresponding request to the tax authorities or before the Ministry of Economy, depending on the regime.

16.1. VAT withholding regimes

VAT legislation in Guatemala provides that the following should act as VAT withholding agents:

- Exporters
- Public Sector entities
- Credit and debit cards operators
- Special taxpayers

Other taxpayers may act as withholding agents upon ex officio registration or if requested by such taxpayer.

VAT Withholding agents are liable to withhold the VAT from the suppliers of goods or services on the following cases:

- Exporters, special taxpayers and other agents on transactions equal or higher than Q2, 500.00 (USD 300)
- Public Sector entities on transaction equal or higher than Q30, 000.00 (USD 3,600)
- Credit and debit cards operators on any transactions of reimbursement to their affiliated establishments.

Guatemala
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Honduras

1. Scope

Value Added Tax (VAT) is applied at a national level on import stage and sale stage of goods and non-personal services.

All transactions carried out within a Free Zone, including sale of goods, imports and provision of services are exempt from VAT.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law:

- Individuals or entities making the sale;
- Individuals or entities rendering the services; and
- Importers or custom agents

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Honduras.

3. Place of supply

3.1. Goods

The place of supply is deemed to be Honduras, where the goods are located within Honduras territory.

3.2. Services

The place of supply is deemed to be Honduras where the service is partially or totally carried out within Honduras territory, regardless of the country of residence of the supplier and recipient of the service.

4. Chargeable event, chargeability of tax

4.1. Goods

For the sale of goods, the VAT chargeable event occurs on the date the invoice or a similar document is issued. If an invoice is unavailable or lost, the VAT chargeable event occurs on the date the goods are delivered.

For the use or consumption of merchandise for the taxpayer's own use or to become part of the company's assets, the VAT chargeable event occurs on the date of the withdrawal from inventory.

4.2. Services

The VAT chargeable event in the case of supply of services occurs on the date an invoice or a similar document is issued, when the service is supplied or on the date of payment, whichever occurs first.

4.3. Imports

The VAT chargeable event in the case of imports occurs at the moment the corresponding import declaration is filed or when the imports are paid for, whichever occurs earlier.

5. Taxable Amount

5.1. General Rule

As a general rule, the taxable amount is the value of the goods and/or services.

The taxable amount for sale of goods and provision of services is the value of the good or the service, whether is made in cash or credit, excluding any direct ordinary or extraordinary finance expenses, discounts provided under regular commercial practices, insurance, shipping commissions and warranties.

The taxable amount for supplies of services includes the price of the service, less any discounts provided under regular commercial practices, and financial charges and the cost of products used to supply the services.

The taxable amount for imports is equal to the sum of the cost, insurance and freight (CIF), the value-added duty, and customs fees.

5.2. Exchange Rate Rules

If the taxable amount is expressed in foreign currency, it should be converted into the local currency by applying the exchange rate published by the Honduran Central Bank on the date in which the supply took place.

5.3. Rounding Rules

When the calculation of the payable VAT happens to be a fraction less than 0.005 of a Lempira, the amount has to be lower to the nearest whole cent amount. If the result is greater than 0.005 lempira, then the amount has to be rounded up to the next whole cent amount.

6. Rates

6.1. Standard Rate

The standard rate for the sale of goods, services and imports is 15%.

6.2. Increased Rate

- The import and supply of alcoholic beverages and tobacco products are subject to a 18% tax rate.
- Business class air tickets are subject to an 18% VAT.

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

There are no exemptions with no right to deduct input VAT in Honduras, except for the producers of exempted goods who have no right for VAT credit.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Exempt activities (e.g. Free Zone Regimes, Export activities) are taxed at 0% rate and taxpayers have the right to deduct input VAT for the tax paid on supplies and services incorporated or used in the production of exported goods.

The following is a list of supplies that are VAT exempt for all industries (please note that this is not an exhaustive list):

- Items from the basic food basket;
- Pharmaceuticals for human and veterinary use;
- Machinery and equipment used to generate energy;
- Books, journals, newspapers, technical and cultural scientific magazines, notebooks and school materials, paintings and artistic sculptures;
- Raw material and tools for agricultural and agro industrial production;
- Raw material for the production of balanced foods not destined for pets;
- The following services: electrical energy, potable water and sewage system, construction , teaching, hospitalization and ambulance transportation, clinical laboratories and clinical human analysis, radiology and other medical diagnostic and surgical services not intended for aesthetic beauty treatments, land transportation of passengers, bank and financial services except real state leasing with option to purchase, professional fees earned by individuals;
- Agricultural equipment;
- Leasing of commercial property for prices under HNL5, 000; and
- The value for entering sports events.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for VAT can be offset against output VAT as a credit, provided that it is attributable to taxable transactions. The amount of VAT payable to the tax authority of Honduras (Servicios de Administración de Rentas or "SAR") is the difference between the debits and credits for the tax period (generally one month).

Any tax credits at the end of the period may be carried forward to the following tax period.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT through a branch, if they carry out VAT activities in Honduras.

9.2. Registration for taxable persons not established in the country

Honduran legislation does not provide a registration mechanism for non-established taxable persons.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons liable to account for VAT

The supplier of goods or services is required to charge and account for VAT. For imports, however, VAT is assessed and charged by the local customs authority to the importer or customs agent.

Withholding and perception agents are required to account for withheld or perceived taxes in their records. They are also required to file a tax return and make payments on a monthly basis.

10.2. Registration

All taxpayers that act as withholding and perception agents should be registered before the tax authorities. Resident businesses should obtain a tax ID number, which is valid for all national tax purposes (including VAT).

The following procedure is used to obtain a Tax ID number in Honduras:

- Fill out a preformatted form and attach any required documentation (e.g., act of incorporation, power of attorney, among others) which is submitted to the local tax authority.
- If approved, the Tax ID number is generally obtained on the same day.

10.3. VAT Identification Number

The Tax ID number (Registro Tributario Nacional or "R.T.N.") is used for all national tax purposes including VAT. This Tax ID number is permanent, unique and exclusive to each taxpayer.

The Tax ID number format in the case of business entities consists of 14 digits, where the first two digits correspond to the state where the company is located; the following two digits correspond to the municipality where the company is located; the following three digits (i.e., 900) determines that it is a business entity; the following digit corresponds to the year; the following five digits are the commercial registration number of the company; and the last digit is determined by the tax authority.

10.4. Tax authority

The tax authority responsible for the administration of VAT is the Income Administrative Service (Servicio de Administración de Rentas or "SAR").

SAR may perform audits to ensure tax compliance by reviewing the taxable persons' accounting records and tax returns. If assessments are issued as a consequence of an audit, SAR may require payment of unpaid taxes and apply corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the Tax Invoices Printing Regulations.

Invoices may be issued in local currency or any other currency. However, accounting registers must only be recorded in local currency by applying the corresponding exchange rates rules.

Invoices must contain at least the following information:

Printed information:

- Identification information of the Taxpayer or Responsible:
- Full name or company's legal name, whichever applies;
- Address of the tax domicile and of the location of the main company. All of the company's addresses may be recorded in the invoice.
- Email address;
- Document name: Invoice;
- Numbering: series, correlative number, and Authorization Key for Printing (CAI for its acronym in Spanish);

- Emission deadline corresponding to the authorization form printing;
- Authorized invoice range
- Information of the Printing Company:
- Full name or company's legal name, whichever applies;
- Tax Identification Number (Registro Tributario Nacional or RTN).
- Printing date;
- Authorization Certificate number from the Printing Company's fiscal registry;
- Destination of the original and copies:
- Original: Buyer or user;
- Copies: Taxpayer or Responsible.

Information to be filled out by Taxpayer or Responsible:

- Full name or company's legal name of the buyer, whichever applies;
- Fiscal Registry Number (Registro Tributario Nacional, RTN) of the buyer;
- Description of the sold goods or type of service rendered;
- Quantity of units sold;
- Unitary price and the amount of sale of the sold goods or rendered services;
- Amount of the applicable tax;
- The local currency denomination (Lempiras)
- Total amount of the transaction in numbers and letters; and
- Place and date of issuance.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoice forms must be printed by an authorized printer or by the taxpayer through a computer system. For both of these procedures, the tax authority has to authorize the issuance of the tax documents by a computer system or any other similar mean, with the proper registration.

10.5.3. Electronic Invoicing

Are the documents that the taxpayer uses electronically to support activities, operations or transactions that have fiscal effects. These must be automated and admitted in accordance with current to the Tax Invoice Printing Regulations.

10.6. Credit notes and debit notes

Taxpayers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt according to the Tax Invoices Printing Regulations.

10.7. Books and Accounting Registers/Records

Taxpayers should maintain and retain for a period of five years in its Honduran tax domicile the accounting books and all related books and special registers, supporting documents, or, programs, sub-programs and other electronic or computerized systems.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Books, registers, records and invoices must be kept for five years from the end of the tax period to which they relate.

10.8.2. Format of Archiving

Books, registers, records and invoices must be kept in a physical storage and may be stored electronically.

10.8.3. Place of Archiving

All physical books and records must be kept in taxpayer's Honduran offices for the aforementioned statutory period. The taxpayer, however, can maintain back up books and records abroad.

10.9. Supporting documentation

Persons liable for VAT are required to retain all necessary information to support the nature and truthfulness of their transactions for a period of five years. Otherwise, additional assessments may be issued during tax audits by the tax authorities.

10.10. Tax period and VAT returns

Persons subject to VAT must file monthly returns, regardless of whether they engage in taxable transactions. The VAT return is due on by the 10th calendar day of the month following the tax period to which it relates.

VAT returns are prepared through an electronic system called DET (acronym in Spanish for "Declaración Electrónica Tributaria"); however, a hard copy must be filed before an authorized bank or the Tax Authority.

10.11. Due Date for payment of VAT

The VAT due should also be paid before the 10th calendar day of the following month corresponding to the monthly VAT period.

10.12. Refunds of VAT

Taxpayers have the right to claim a tax credit where input VAT exceeds output VAT at the end of each month. Taxpayers also have the right to claim a tax refund after 60 working days. Any remaining tax credits at the end of the period may be carried forward to the next period.

There is no refund mechanism for non-resident businesses.

10.12.1. Exports VAT refund regime

Exports are zero-rated. In addition, exporters may also compute a tax credit for VAT paid on raw materials and other purchases related to exports.

The tax credit related to exports is recoverable against output VAT. Where the taxpayer has no output VAT to offset, or when the deduction of the tax credit is only partially taken, the excess part of that credit not used will be reimbursable to the taxpayer, through a special VAT recovery regime.

Exporters must file an export return before the tax authorities, reporting the VAT credits related to their exports. This return must be filed on the tax period following to that on which the export took place, attaching a report certified by a public accountant.

The tax credit related to exports and other taxable activities can only be refunded in proportion to the exports, and can be fully refunded to a cap of 21% of the FOB value of the exported products.

There is no specific method stated in the legislation for allocating the tax credit related to exports, but taxpayers are able to use any methods of calculation that would be suitable to their business model. This calculation has to be approved by the tax authorities.

Finally, it is important to highlight that the tax authorities have to approve the tax credit to be refunded. If the exportations are related to triangulation transactions (the country of destiny of the goods is different to the country in which the foreign buyer is located) the reimbursement would be subject to a special and stricter audit from the Tax Authorities before its approval

10.13. Additional Reporting (statements)

There are no additional reporting requirements.

11. Auditing

11.1. Auditing

Taxpayers must provide access to the duly accredited Tax Authority representatives to audit and verify accounting books and registers in the taxpayer's business and to provide the proper supporting documentation.

11.2. E-Auditing

The tax authorities in Honduras do not currently conduct e-audits and there are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

The penalty for failure to file a VAT tax return is equal to 1% of the corresponding tax, if the return is filed within five working days after the deadline; after this period, the penalty is a monthly 2% surcharged up to a ceiling of 24% of the total amount of tax due.

The penalty for not keeping the required books, registers, records and invoices will depend on the annual gross income of the entity, it varies from a 10% of a minimum wage to an approxiamte of 10 minimum wages.

There is no specific penalty for not being registered before the tax authorities and obtaining a Tax Identification Number. However, failure to register would result in an incomplete VAT filing, which would be subject to the corresponding penalty.

12.2. Interest on late payments

In case of lack of or partial payment of the withheld VAT, taxpayers should pay the amount due plus a monthly 5% surcharge up to a ceiling of 60% of the total amount of tax due.

12.3. Joint Liability

Yes, tax payer perceiving the VAT and the taxpayer oblige to pay are both liable for the VAT payment.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The statute of limitations for the recovery of VAT by the tax authorities is five years beginning from the date of the filing of the tax return.

13.2. Recovery of VAT by the taxable person

The statute of limitations for the recovery of VAT by the taxable person is five years beginning from the date of the filing of the tax return.

14. Rulings and Decisions

Taxpayers may request an opinion from the tax authorities with regard to any tax matter. The period of time for a response may vary from two to four weeks depending on the complexity. However, legal opinions of the tax authorities are not conclusive and are left subject to further review and verification.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The Honduran legislation recognizes tax fraud as a felony; related penalties are established by the Penal Code.

16. Other Rules

16.1. VAT withholding regimes

Companies considered by the SAR as Major Tax Payers, should withhold VAT from their suppliers of the following services:

a. Freight services.

b. Fumigation and cleaning services

c. Printing and silk-screen printing services

d. Security services.

e. Rental of commercial real estate, machinery and equipment.

Credit card companies and airline companies are VAT withholding agents and are required to withhold VAT on the supply of goods and services by the businesses affiliated to them when payment has been received through credit cards. Credit card companies reimburse the affiliated businesses the net amount of the transaction plus 50% of the corresponding VAT. The remaining 50% VAT due is paid to the Tax Authority.

Honduras
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Mexico

1. Scope

VAT was introduced on 1 January 1980 and applies on a federal level.

The following transactions are subject to VAT when performed within Mexican territory:

- Supplies of goods;
- Supplies of services;
- Temporary supplies of tangible goods (leasing). Please note that, different from other VAT systems, leasing is considered a separate taxable activity with specific rules;
- Importations of goods and services. This includes not only the introduction of goods into the country, but also the following activities:
  - The acquisition of intangible goods by Mexican residents supplied by non-Mexican residents;
  - The temporary use or enjoyment, in Mexican territory, of intangible goods supplied by non-Mexican residents;
  - The temporary use or enjoyment, in Mexican territory, of tangible goods that have been physically delivered from abroad into Mexico;
  - The use and enjoyment in Mexican territory of services, when supplied by non-Mexican residents, except for international transport.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Mexico.

3. Place of supply

3.1. Goods

In the case of goods dispatched or transported, the place of supply is deemed to be the place where the dispatch or transport begins. In the case of goods not dispatched or transported, the supply takes place where the goods are when the supply takes place.

Any supply of goods outside of Mexico is not subject to Mexican VAT. However, the supply of goods subject to registration in Mexico (i.e. aircrafts, ships, etc.) by Mexican residents or establishments of foreign residents is subject to VAT, even if the goods are located abroad.

In the case of intangible goods, the place of supply is deemed to be in Mexico when both the supplier and the acquirer are Mexican residents.

The place of supply of temporary supply of goods (leasing) is where the goods are physically delivered.

3.2. Services

The place of supply of services is Mexico when the services are physically carried out within Mexican territory by a Mexican resident.

Supply of intangible goods or services by non-residents may be deemed to be importations and therefore taxable in Mexico by the recipient (through self-assessment).

4. Chargeable event, chargeability of tax

4.1. Goods and services

Mexican VAT is based on a cash flow system; therefore as a general rule, the chargeable event occurs when the consideration for a supply is paid (totally or partially), including deposits, payments in advance or any other delivery that may be construed as payment for the supplier. There are some exceptions to these rules, such as interest and securities.

4.2. Imports

On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of importation of services and intangible goods, the chargeable event occurs when the consideration is effectively paid.

5. Taxable Amount

5.1. General Rule

As general rule, the taxable amount is the price or consideration paid for the transaction, increased with other charges made to the recipient of the goods or services.

In case of importation of taxable goods, the taxable amount is the customs value of the imported goods plus the import duties, and any other contributions paid for the importation (e.g. countervailing quotas and customs processing fees).

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published in the official gazette corresponding to the date before on which the taxable event took place.

5.3. Rounding Rules

Taxes, including VAT should be calculated using all decimal positions. However the amount to be paid should be rounded up (from 51 to 99 cents) or down (from 1 to 50 cents) to the nearest whole peso.

6. Rates

6.1. Standard Rate

The standard rate is 16%.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There are no reduced rates.

Until December 31st, 2013, an 11% rate applied where taxable activities were performed within the Border Region by residents in such region.

For such purposes, the Border Region was deemed to be the border zone of 20 kilometers parallel to the international borders of the north and south of the country, the States of Baja California, Baja California Sur and Quintana Roo, as well as the Cananea and Caborca districts in the State of Sonora and a specific area also in the State of Sonora.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following supplies are exempt from VAT:

- Land;
- Immovable property for residence purposes;
- Used movable goods, except when supplied by companies;
- Tickets or other proofs of payment to participate in raffles, gambling games and other contests;
- Currency;
- Other negotiable instruments;
- Between foreign residents of goods imported under a duty deferral program, under certain conditions;
- Gold ingots;
- Insurance of agricultural and similar risks as well as life insurance and the related commissions of agents and reinsurance;
- Commissions, in certain cases;
- International maritime transportation supplied by non-residents;
- Education services;
- Interests, collected or paid by financial institutions;
- Urban public ground transportation;
- Interests and certain charges related to mortgage credits;
- Health services supplied by individuals or government institutions;
- Books, newspapers and magazines, as well as the rights to use them when sold by their author;

As from January 1st, 2014, importations under the temporary regime to be used in manufacturing processes and for the automotive bonded warehouse regime are in principle subject to payment of VAT. However a tax credit may be available complying with specific requirements. Other temporary importations remain exempt from VAT (e.g. for the oil or aerospace industry).

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

The supply of non-industrialized animals and vegetables (except for pets), food products with specific exceptions, patent medicines, fertilizers, gold and books (when not supplied by their author), among others, is zero-rated.

Export of goods and services is also exempt (zero-rated). The following are deemed exportations:

- Permanent exportation, as defined by the customs legislation;
- Supply of intangible goods by a resident to a non-resident;
- The temporary use or enjoyment, abroad, of intangible goods supplied by residents in Mexico;

- The use and enjoyment abroad of services supplied by residents in Mexico, for the purpose of:
  - Technical assistance, technical services related to such assistance and information relating to industrial, commercial or scientific experiences;
  - "Maquila" and "submaquila" operations for export as defined by the customs legislation;
  - Advertising;
  - Commissions and mediation;
  - Insurance and reinsurance, as well as bonding and rebounding;
  - Financing operations;
  - Filming;
  - Call-center services;
  - International transportation of goods (including maritime, rail, ground and air transportation) supplied by Mexican residents and related services carried out at ports, provided that they are supplied in operations for the export of goods;
  - Air transportation of passengers supplied by Mexican residents, for the portion of the service which is deemed to take place abroad (75% portion of international air transport);
  - Services supplied by individuals or partnerships.

8. Deductions

8.1. VAT recovery

Input VAT incurred by taxable persons (including that incurred prior to commencement of taxable activities) can be offset against output VAT as a credit, provided that it is attributable to taxable transactions, has been effectively paid to the supplier (or self-assessed, as applicable) and corresponds to purchases that qualify as deductible cost or expense for income tax purposes.

When it is not possible to identify whether input VAT relates to transactions within the scope of VAT or exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT if they have a permanent establishment in Mexico (as defined by the Mexican Income Tax Law) or if they carry out VAT activities in Mexico.

9.2. Registration for taxable person not established in the country

Mexican legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

The following persons are jointly liable with the taxable person:

- Recipients of goods or services when obliged to withhold VAT from the supplier,
- Legal Representatives of foreign residents performing taxable activities in Mexico,
- General Manager (or equivalent), partners and shareholders of the taxpayer, in certain cases.
- Any person declaring his/her will to assume joint liability.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is the person liable to charge and account for VAT on its transactions, except for the case of importation of services or intangible goods, where VAT is self-assessed by the Mexican recipient.

Where recipients of goods or services are obliged to withhold VAT from the supplier (see "Other Rules" section), are also obliged to account for withheld taxes in their records, and they must file a return and make payments on a monthly basis.

10.2. Registration

Entities and individuals performing taxable activities in Mexico should obtain a tax ID number (Registro Federal de Contribuyentes or "R.F.C."), which is used for all Federal tax purposes (including VAT).

There are no VAT registration thresholds.

10.3. VAT Identification Number

The Tax ID Number is used for all Federal taxes purposes (including VAT).

The Tax ID Number format in the case of entities is XXX 999999 X99. This consists of 12 digits, where the first three digits are letters extracted from the name of the entity; the following 6 digits are the date on which the company began its operations (yy/mm/dd) and the last 3 digits are alphanumeric and determined by the authority.

10.4. Tax authority

The Tax Administration Service (Servicio de Administración Tributaria "SAT") a department of the Ministry of Finance is responsible for the administration of VAT. SAT is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons' accounting records and tax returns. If assessments are raised as a consequence of an audit, SAT is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices must contain at least the following information, among other requirements:

- Supplier information: Tax ID Number, tax regime;
- Invoice number and digital stamp;
- Date and place of issuance;
- Customer's tax ID number;
- Quantity, measurement unit, and description of the goods or services;
- Total amount;
- Amount of VAT and other taxes charged (specifying the amount corresponding to each different rate);
- Specify if the consideration will be paid in one single payment or in installments.

In case of a single payment, the invoice must show the total amount of the operation and the corresponding VAT.

Other requirements apply for particular transactions.

In case of installment payments, the invoice must show the amount of the installment and the VAT corresponding to such installment.

In case Mexican taxpayers wish to deduct expenses for Income Tax and/or VAT, the corresponding invoices (or similar documents) issued by non-residents are required to fulfill specific requirements.

Invoices can be either issued in local or foreign currency. However, accounting registers must only be recorded in local currency, applying the corresponding exchange rates rules.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoice must be issued by the taxpayer through electronic means.

10.5.3. Electronic Invoicing

Electronic invoices on XML format are mandatory. Paper copies should be issued upon request of the recipient of the goods or services those printed versions are named “Comprobante Fiscal Digital CFDI”.

10.5.4. Payment receipt complementary invoice

As part of the e-invoices program, starting September 1, 2018, it is mandatory for Mexican taxpayer to issue a complement invoice, which essentially, has to be issued in case of collections in installments.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended.

10.7. Books and Accounting Registers/Records

Taxable persons are required to keep electronic records of all the information related to their VAT liability, particularly information needed for the correct assessment of VAT liability, the preparation of the tax return, and information about VAT exempt supplies or those not subject to VAT.

Main new electronic accounting obligations consist in submitting the chart of accounts and trial balances to the tax authorities by electronic means in a monthly basis, as well as to keep the record on Spanish.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Records have to be kept for five years from the date on which the return to which they relate was filed or should have been filed. Specific documents, such as the act of incorporation and federal tax returns must be kept indefinitely.

10.8.2. Format of Archiving

Electronic documents authenticated with e-signature or digital stamp (e.g. e-invoices) must be archived in electronic format.

Taxpayers who submit an Annual Tax Report (“Dictamen”) are allowed to microfilm or record in electronic devices the supporting documents of their transactions. Other taxpayers can do it upon authorization from the Tax Authorities.

10.8.3. Place of Archiving

Records must be archived within the taxpayer’s fiscal address. There are no specific provisions regarding the place of archiving for electronic files; however, they should be available within the taxpayer’s fiscal address upon the Tax Authorities’ request.

10.9. Supporting documentation

Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns

Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions or not. VAT returns should be filed electronically (except for some individuals). The VAT return is due by the 17th calendar day of the month following the tax period to which it relates.

10.11. Due Date for payment of VAT

The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT

Local businesses can obtain a refund where input VAT exceeds output VAT at the end of each monthly period. Regularly, VAT refunds take around 40 working days after the submission of the corresponding request; this period could be reduced in certain cases.

In the cases where there is a VAT recoverable balance determined and declared in the monthly VAT return, the taxpayer may credit such balance against future VAT returns or offset it against future payment of other taxes; or request a VAT refund.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

Taxpayers must also submit a monthly informative return, which includes information about transactions with suppliers of goods and services. This return should be filed electronically.

In accordance with a miscellaneous tax rule as of March 2015 there is a new VAT informative tax return. Such new VAT informative return it is pending to be published by the tax authorities in the official gazette and will replace the actual Informative Return onwards.

The new informative VAT tax return will be called: VAT return of suppliers ("Declaración de proveedores IVA").

11. Auditing

11.1. Auditing

The Mexican VAT Authority may perform audits:

- To review the taxpayers' records, within the Authority's facilities;
- To audit the taxpayers' records within the company's facilities;
- To review accounting reports performed by certified public accountants;

In this sense, the Mexican VAT Authority may determine penalties regarding payments deemed as omitted for the last 5 years from the date on which the corresponding return was filed or should have been filed, however, such term can extend to 10 years in the following cases:

- When the taxpayer has not requested a tax registry;
- When the taxpayer has not kept its records for the last five years;
- When the taxpayer has not submitted VAT returns.

11.2. E-Auditing

Tax authorities are allowed to practice electronic audits to taxpayers, related and non-related parties.

Audits will be based on the analysis of the information and documentation already provided to over one or more items or specific concepts and over one or more taxes.

12. Penalties and risks for non-compliance

12.1. Penalties

According to the Mexican Legislation, in case of non-compliance, the Mexican VAT Authority may sanction the taxpayer with a fine ranging from 55 to 75% of the VAT deemed as omitted or incorrectly credited.

Penalty for no or late registration ranges from USD 200 to USD 570 approximately.

12.2. Interest on late payments

In case of late payments, the taxpayer must pay the omitted VAT plus the inflation adjustments that are calculated according to the inflation rate per month, and surcharges which rate increases per month.

12.3. Joint Liability

According to the Mexican Tax Legislation, there is no joint liability in the case of penalties.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The Mexican Tax Authority may claim the payment of VAT regarding the operations performed during the last five years by the taxpayer, from the date on which the corresponding return was filed or should have been filed. Such term can be extended to 10 years in some cases.

13.2. Recovery of VAT by the taxable person

Taxpayers may recover VAT balances regarding their operations performed during the last five years, from the date on which the corresponding return was filed or should have been filed.

14. Rulings and Decisions

Taxpayers may request rulings before the Mexican Tax Authority that can support the VAT treatment applied to a specific transaction. However, such rulings are not binding.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The Mexican VAT legislation does not provide for any anti-avoidance or VAT fraud specific provisions.

16. Other Rules

16.1. VAT withholding regimes

VAT must be withheld by the taxable person recipient of the goods or services in the following circumstances:

- Credit institutions acquiring assets through giving in payment or judicial or trust adjudication.
- Entities:
  a. Receiving independent personal services, or for the temporary use or enjoyment of goods supplied to them by individuals;
  b. Acquiring scrap to be used as a raw material or to be sold;
  c. Receiving services of ground transportation of goods;
  d. Receiving services supplied by commissioners who are individuals.
- Individuals or entities acquiring, or for the temporary use or enjoyment of, tangible goods supplied to them by foreign residents without a permanent establishment in Mexico.

In general terms, reverse charge mechanism (self-assessment of VAT) is applicable to the following transactions:

- Acquisition of intangible goods by a resident from a non-resident;
- The temporary use and enjoyment, within Mexican territory, of intangible goods supplied by non-residents;
- The temporary use and enjoyment, within Mexican territory, of tangible goods supplied by non-residents, physically delivered abroad; and
- The use and enjoyment within national territory of services supplied by non-residents.

16.2. Recent Notices

Tax authorities has recently issue new controversial VAT regulations as follows:

16.2.1. Shipping Agents in Mexico

According to the new tax regulations all shipping agents registered within the National Maritime Public Registry engaged in providing services to residents abroad without permanent establishment must apply the 16% Value Added Tax (VAT) on services related to imports or 0% VAT on services related to exports.

16.2.2 VAT to fast food

As of July 1st, 2015 the Mexican tax authorities have established that all convenience stores that in the sale of prepared foods VAT must be charged per each one of the following fast food products (i.e. sandwiches Tortas, baguettes, paninis, gorditas, quesadillas, tacos o flautas, croissants, pizzas, hotdogs, hot cakes, hamburgers, snacks, sushi, etc.)

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Nicaragua

1. Scope

VAT was introduced on 1 April, 1985 under the name of Value General Tax (Impuesto General al Valor, in Spanish) and renamed later as Value Added Tax.

The following transactions are subject to VAT when performed within Nicaragua:

- Supplies of goods;
- Supplies of services;
- Importations of goods;
- Export of goods and services.

A supply of goods is any act or contract that entails the transfer of dominion or the right to dispose of a good as the proprietor, independently of the denomination assigned to the parts and of the method of payment of the agreed price.

A supply of services will be considered as any profit bearing transactions that do not consist in the transfer of dominion of movable assets.

Import, means the entry of goods from abroad for use or consumption in the national custom territory. Export of services, since did Law No. 822-2012.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the Law No. 822-2012.

Persons liable to act as VAT withholding agents are all individuals or entities that carry out taxable transactions; government and local entities are included.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Nicaragua.

3. Place of supply

3.1. Goods

The supplies of goods located within Nicaragua are subject to VAT in Nicaragua.

3.2. Services

Supplies of services fully or partially performed in the national territory by a resident are subject to VAT in Nicaragua.

When the services include the use or right over goods that are located in Nicaragua, the supply is completed at the moment of delivery by the supplier to purchaser.

In relation to international air transportation services, VAT will be applied when the ticket is sold in Nicaragua, including round-trips. When the trip begins in Nicaragua, even if the ticket was bought abroad VAT will still apply.

3.3. Imports

Imports are considered to take place when the goods are available for the importer within Nicaragua the customs area, or acquisitions of tangible goods in the country are transferred by persons that introduced them free of taxes through customs franchise.

3.4 Exports

Export, is considered the output from the national customs territory of domestically produced goods for use or consumption abroad, being the same treatment applicable to services provided to non-resident users.

4. Chargeable event, chargeability of tax

4.1. Goods

The supply of goods is considered to take place when:

- The invoice or the corresponding legal document is issued, even if the price has not been paid in full, or
- The transfer is consummated, even if the corresponding document has not been issued,
- or if the payment has not been made yet, as long as there is consent from the parties, or
- The product has been delivered, unless there is no obligation of receiving it or to acquire and self-supply is on behalf of the company and its employees, as it is not deductible for income tax.

4.2. Services

The supply of services will be considered to take place and there will be an obligation to pay VAT at the moment the required payment is demandable. In other cases the Tax Authorities will issue the corresponding regulations. Advanced payments received by the supplier are included as amounts taxable with VAT.

4.3. Imports

Upon importation, VAT is applicable when tangible goods are introduced and cleared for free circulation within Nicaragua. VAT will also apply when tangible goods that have been previously imported under special customs regimes, and VAT was not paid, are transferred within Nicaragua.

4.4 Exports

The VAT on the exportation of goods and services is applicable when tangible goods or services are exported from the national customs territory, to abroad.

5. Taxable Amount

5.1. Goods

The taxable amount for VAT is the value of the transaction established in the invoice or respective document, plus all other additional amounts under any other concept. If this value is missing in the transaction, mark-up value should be applied or by default, and the assessment should be made by the tax authorities.

When the supply of a taxable good entails the supply of an exempt service, VAT will be levied on the addition of the value of the supply of the taxable good plus the value of the supply of the service.

5.2. Services

The taxable amount is the value of the consideration paid plus any additional amount included in the supply, except for tips. When the consideration paid for a taxable service also includes the indispensable supply of goods exempt of VAT, the tax will be levied on the sum of the value for the supply of goods and the service.

5.3. Imports

The taxable amount is the customs value plus any other amount due to other taxes and duties that are collected at the moment of importing the goods and other expenses declared in the corresponding customs documentation.

5.4. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the official exchange rate issued monthly by the Central Bank of Nicaragua.

5.5. Rounding Rules

There are no rounding provisions for reporting tax.

6. Rates

6.1. Standard Rate

The standard rate is 15%.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

Domestic electricity consumers in the range of three hundred kW/h to 1,000 kW/h, will pay seven percent (7%) of the value added tax (VAT).

The Value Added Tax (VAT) will be settled solely and exclusively on the actual consumption of electric energy, without contemplating in its calculation base, any other additional charge that contains the invoice.

(Law No. 911. Law of Amendments to Law No. 554, LAW OF ENERGY STABILITY AND TO LAW No. 898, ACT OF VARIATION OF THE TARIFF OF ELECTRICITY TO THE CONSUMER. Approved on September 10, 2015. Published in The Gazette No. 178 of September 22, 2015.)

7. Exemptions

7.1. Exemption with right to deduct input VAT

Exports are subject to a 0% rate. The Fiscal Settlement Law and its regulations establish that, the exports of services are subject to a 0% VAT rate. Law 917 - 2015 of Free Trade Zone (FTZ) Regime, recognizes the exports of services; therefore, FTZ's should accept the application of said scheme.

7.2. Exemption with no right to deduct input VAT

The following are exempt of VAT:

1. Self-consumption of goods non-deductible for income tax purposes.

2. The sale of goods and provision of services, exempt by the law, such as: Exempt Goods:

- Books, brochures, magazines, school and science materials, agendas and other periodic publications, like the inputs and raw material necessary for elaboration of such products;
- Medications, vaccines and human consumption serum, or hoses and prosthetics, glucose measuring equipment like stings, machinery and strips for the measuring of glucose, oxygen to clinical or hospital, chemical reagents for clinical or hospital human health exams, wheelchairs and other apparatus designed for disabled people as well as machinery, equipment and parts, inputs and raw material necessary for the elaboration of such products;
- Rice except for when packaged in any presentation lesser than or equal to fifty (50) pounds and of better quality than 80/20, beans, cane sugar (except for special sugars), edible oil except for olive, sunflower seed, corn or sesamee seed oils, ground coffee except coffee with a blend higher than 80/20, tortilla (corn food), salt, soy grain;
- Corn, corn dough, corn and wheat flour, simple and traditional pastries, live yeast for exclusive use in the fabrication of simple and traditional pastries, “pinol” and “pinolillo” (crushed seeds used to make traditional beverages);
- Vegetables, dried fruit, beans, legumes and other agricultural goods (cash crops) that were not submitted to a transformation or packaging process, except flowers or floral arrangements;
- Eggs, modified (pasteurized) milk, preparations for lactating alimentation, (materialized) milks, integral and fluid milk;
- National (traditional) cheese;
- National production of toilet paper, washing soap, detergent, bath soap, tooth paste and brush, deodorant, broom, match, sanitary towels, butane gas (up to 25 pounds);
- Live or fresh animals and fish, and other non-industrialized animal products;
- The local supplies of these goods carried out by companies under the free trade zone regime are subject to the payment of VAT:
- The transfer of dominion of Real Estate Property;
- National circulation coinage, lottery tickets, instantaneous lottery tickets, social participations and other securities, with the exemption of deposit certificates that incorporate the possession of goods that the law compels VAT to be paid for their transfer;
- Some oil products;
- The molasses or cow feed, poultry, aquiculture, whatever the presentation may be;
- Veterinarian products and those destined to vegetable health requirements;
- The supplies of insecticides, pesticides, herbicides, defoliants, fertilizers, compost, seeds and biotechnological products for forest and agriculture needs;
- Medical equipment;
- Used movable assets;
- The transfer of goods by companies operating under the duty free regime according to the matter’s law;
- Materials, raw material and intermediate goods that are physically incorporated in the final product that make up the consumption basket that are subject to an industrial transformation process for their elaboration according to the Regulation of the VAT Law; and
- Those goods carried about in international or Central American fairs that promote the development of the agricultural sector, in relation to the goods related directly with the activities of this sector, according to the regulation of the law and in consultation with the organizers.
- Solar panels and solar deep cycle batteries used for power generation from renewable sources and lamps and thrifty electricity spark plugs.

Exempt Services:

- Human health services;
- Insurance Premiums against agricultural risks and obligatory insurance established in Law 431, Vehicular Circulation and Transit infractions Regimen;

- Shows or sporting events, organized nonprofit;
- Internal, aerial, terrestrial, lake, fluvial and maritime transportation;
- Educational services carried about by entities and organizations whose principal nature is education;
- The supplies of energy and electric flow utilized for agricultural irrigation;
- Invoicing related to the distribution of energy for domestic consumption, when it is less than or equal to 300 kw/h monthly. If the consumption exceeds such amount, VAT will be paid for the total consumption;
- Drinking water supplies, except ice and bottled water;
- Services relating to banking and microfinance. Interests, including the interests of the leasing;
- Social interest residency construction contracts according to section 39 of law 428, Institute of Urban and Rural Housing;
- Real estate rental destined for residential use, but the furniture within the rental residence is not exempt; and
- Rental of lands, machinery, or equipment for agriculture, forest or aquiculture use.
- Imported goods whose supply within the country is not subject to VAT and will not be subject to tax, except for used goods.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met. Input VAT generated at a startup stage can also be recovered.

Input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes. Where input VAT relates to transactions exempt from VAT, tax recovery or credit should not apply, and VAT must be considered as a cost or expense. If these transactions relate to generating income that is both VAT exempt, and taxable, a pro-rata calculation to determine the tax credit must be applied (proportionality).

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

In principle, section 10 of the Commercial Code establishes that all non-resident entities or individuals that would like to carry out businesses within Nicaragua must be registered before the Commercial Registry, and then before the Tax Authorities as taxpayer and VAT withholding agent.

9.2. Registration for taxable persons not established in the country

Please refer to VAT Liabilities section above.

9.3. Application Procedure

The process to obtain a Taxpayer registry number (RUC) is the following:

- Enter into Act of Incorporation for legal entity before notary and register it before the Public Commercial Registry;
- Fill the RUC form provided by tax authorities, accompanied with the act of incorporation registered in the public commercial registry, power of attorney of the legal representative, amongst others;
- The registration and Tax ID number are obtained, upon approval, on the same date of the mentioned requesting letter.

9.4. VAT Registration: Simplification

There are no simplification provisions for VAT Registration in Nicaragua.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier of goods and services is the person that is liable to charge and account for the VAT on its transactions.

Withholding agents are also obliged to account for withheld taxes in their records and they must file a return and make payments on a monthly basis.

10.2. Registration

Legal entities and individuals that carry out activities subject to VAT must register as VAT withholding agents before the Income Administration or offices authorized by DGI, who issue a certificate of responsible VAT withholder, whether it be 0% or 15% rate, or both.

There are no VAT registration thresholds.

10.3. VAT Identification Number

The Tax ID Number (Registro Único de Contribuyentes or "RUC", in Spanish) is used for all tax purposes (national and local). The Tax ID Number format in the case of entities is J0310000000xxxx

10.4. Tax authority

The Tax Authorities (Dirección General de Ingresos "DGI", in Spanish) is responsible for the administration of all national taxes, including VAT.

10.5. Invoicing

10.5.1. Valid Invoice

Taxpayers are required to issue invoices or documents that prove the value of the taxable transaction carried out, including the transferred VAT, in the form and with the requisites established by law.

Invoices must be issued in printing forms authorized by DGI complying with the following requirements:

- Be issued in numerical order, providing the original copy to the customer;
- Be issued in the same order of the successive numeration according to the receipt book in use;
- It should include the following data:
- Date of the transaction;
- Name, address, telephone number and Tax ID Number of the supplier;
- Quantity and type of goods or services supplied;
- The unit price;
- The total value of the supply or service that does not include the VAT fee is expressed as a discount;
- The reason for the tax discount corresponding to the exemption is detailed and identified.

When an invoice is cancelled, the VAT withholding agent must keep the original and duplicates, showing the legend "cancelled" in each one of them.

Persons liable for tax can be authorized to issue receipts, tickets or similar documentation by using registered machines.

Such receipts must include the following information:

- Date of the transaction;
- Name, address, telephone number and Tax ID Number of the supplier;
- Receipts must contain the total of the daily sales and be filed in successive order;
- The register machines or computers must obtain or register only one sales total during the day, and if for some reason one receipt

shows more than one sales total for a given day, this operation should be backed-up with other supporting evidence to be duly justified;

- That in the case that the operation of immediate devolutions is already registered in the receipt, the original and its copies should be conserved for their proper justification, reflecting in each the word, “annulled”.

When the documents are registered documents or another class of document, it must be shown that the VAT has been expressly transferred to the purchaser, separately of the operation value.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

There are no specific provisions on this topic.

10.5.3. Electronic Invoicing

Authorization can be requested to use electronic means to issue invoices to support transactions that are subject to tax. Other type of technologies can also be used.

10.6. Credit notes and debit notes

Only suppliers are is entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records

The statute of limitations is established by the Tax Code for all taxes managed by the taxing authority at four years, and for Municipal taxation is two years.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The invoices, receipts and the rest of the documentation must be kept for a four year period.

10.8.2. Place of archiving

There are no specific provisions for the place of archiving but books and accounting registers are normally kept at the taxpayers address.

10.8.3. Format of Archiving

Electronic device registers in principle, are not permitted. Paper copies are still necessary (under the Banking legislation, banks are authorized to keep electronic registers).

10.9. Supporting documentation

Please see invoicing section.

10.10. Tax period and VAT returns

Taxpayers subject to VAT must file monthly returns, whether the taxpayer performs taxable transactions or not. VAT returns can be filed electronically through the Tax Authority’s website.

The VAT return is due by the 15th day of the month following the end of the tax period to which it relates.

10.11. Due Date for payment of VAT

The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT

When input VAT exceeds output VAT at the end of each monthly period, taxpayers may credit such balance against future VAT returns.

In the following scenarios VAT may be offset or refunded:

1. The transfer of goods subject to a 0% rate.
2. The transfer of goods or provision of services to exempt persons.
3. Withholding agents to which the government pays VAT through tax certificates there is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

There are no specific provisions on this topic.

11. Auditing

11.1. Auditing

The tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxpayers' accounting records and tax returns. If assessments are issued as a consequence of an audit, the Tax Authority is entitled to challenge unpaid taxes and apply the corresponding fines.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Lack of payment of taxes within the established period is subject to monthly fines, regardless of any further action to be followed by the tax authorities.

The fine is 5% of the unpaid balance for each month or fraction of month overdue, which must be paid as from the date on which the corresponding return should have been filed.

In the case of VAT withholding agents, a 5% fine will be applied over the unpaid balance for each month or fraction of month overdue.

In no case should the accumulated fines, subject of this section, exceed the equivalent to 50% of the unpaid balance.

12.2. Interest on late payments

See 12.1 above.

12.3. Joint Liability

Taxpayers and withholding agents are the only liable persons before the Tax Authorities for the VAT due.

Any person that unduly withholds or charges VAT will be deemed directly liable before the person affected by such withholding or charge. If such unduly withholding or charge of VAT is proven to be tax fraud, the person may be prosecuted.

If a person that withholds or perceives VAT by error, pays the money to the tax authorities within the maximum period of one month of withholding or perceiving it, the act will be considered as an excusable error and refund will take place for the corresponding amount to the creditor, at his simple request.

Likewise, the representatives of economic entities or non-resident persons, whatever the nature of their representation may be, when by their intervention activities subject to VAT are carried out, they are obliged, with the sole responsibility, to comply with the obligations defined by the Law.

Economic entities are groups of persons that even though they are independent from a legal perspective, are organically linked between each other by economic, financial and organizational relationships, such as the origin of their capitals, the distribution of their utilities, the conduction or real management of their businesses, the structure of their trade operations, or of any other determining factor. For tax purposes the economic entities will be considered as independent taxpayers.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The statute of limitations for debit tax is four years from the due date.

13.2. Recovery of VAT by the taxable person

The statute of limitations for credit VAT is four years from the due date.

14. Rulings and Decisions

Taxpayers may request rulings before Tax Authority regarding the VAT treatment of specific transactions, which are binding for the taxpayer.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

Taxpayers would be deemed to commit fraud on the following cases, and subject to the following penalties:

- VAT withholding agents as defined by law, which do not pay the collected VAT amount to the Tax Authorities; one to three years of prison, plus a fine equivalent to three time the outstanding tax.

If the VAT withholding agent is a legal entity, the criminal offense will be allocated to the person with direct administrative responsibility within the organization.

16. Other Rules

16.1. VAT withholding regimes

A VAT withholding agent is the person obliged to transfer VAT or excise tax, according to the case, and hand it over to the Tax Authorities, according to the requirements established by the Law.

VAT is applicable and must be withheld on the following transactions:

16.1.1. Occasional supply of goods or services

Where there is an occasional supply of taxable goods or services, the responsible withholding agent must pay the tax in the form, time and place determined by the Tax Authorities according to the nature of the taxable transaction.

16.1.2. Close of Business

When the taxpayer closes operations there is an obligation to pay the VAT corresponding to the taxable goods in stock, once the sale of the inventory has taken place. In the case of acquisition of a business, the purchaser must demand a solvency certificate in relation to VAT, and if such certificate is not provided, the acquirer becomes obliged and solely liable for the taxes due by the previous VAT withholding agent.

16.1.3. Transactions not recorded in accounting books

In general terms, when an acquisition is not recorded in the accounting books, the transaction is deemed as a supply subject to VAT (unless taxpayer proves the opposite). The value of this transaction will be the acquisition value plus a mark-up established by administrative resolutions issued by Tax Authorities.

16.1.4. Small Business Regime

The finance department of the Executive Branch establishes parameters and requirements so that small business taxpayers have a legal framework that simplifies the procedures according to the contributive capacity of what is considered a simplified special regime of fixed quota for VAT payment in order to ensure VAT collection.

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Panama

1. Scope

ITBMS (Spanish acronym for “Impuesto a la Transferencia de Bienes Muebles Corporales y la Prestación de Servicios”) is the Panamanian Value Added Tax (VAT). This is a national tax.

The following transactions are subject to VAT:

• Supplies of movable property;

• Supplies of services; and

• Importation of goods.

There are some special regimes that do not tax transactions of certain individuals (Knowledge City, Renewable Energy Sources, etc.) and specific VAT exempted free trade zones (Colon Free Trade Zone, Petroleum Free Zone, etc.).

2. Taxable Persons

2.1. Definition

The VAT law in Panama defines a “taxable person” as the supplier of goods or services whose yearly gross income is greater than US$36,000.00, or the importer of goods regardless the amount of the importation.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Panama.

3. Place of supply

3.1. Goods

The supply of goods is taxable when it is carried out within Panama, regardless of where the transaction was agreed upon or paid.

3.2. Services

Services are taxable when performed in Panama (even when used and enjoyed abroad).

4. Chargeable event, chargeability of tax

4.1. Goods

The VAT chargeable event on the transfer of goods is the issuance of the invoice or the delivery of the goods, whichever occurs first.

The VAT chargeable event is also when the owners, partners, shareholders, officers, or legal representatives consume goods of the business for personal purposes, or when the entity accounts it, whichever occurs first.

4.2. Services

The VAT chargeable event for the supply of services is the issuance of the invoice; the completion of the service; or the partial or total payment of the service, whichever occurs first.

Within the definition of services, the legislation includes the following:

- The performance of construction projects with or without the delivery of materials;
- Intermediary services;
- The lease of immovable goods and movable or any other agreement or act which has as its main purpose the transfer of the right to use the goods;
- The commissions charged from the transfer of negotiable documents and notes in general, the commissions paid arising from the services provided by banks and other financial institutions.

The VAT chargeable event is also when the owners, partners, shareholders, officers, or legal representatives consume the services of the business for personal purposes, or when the entity accounts it, whichever occurs first.

4.3. Imports

VAT is assessed and paid at the Customs Authority of Panama at the point of importation.

5. Taxable Amount

5.1. General Rule

VAT is generally levied on the base price plus any other tax on the transaction. The following is an outline of what the taxable amount is for certain goods and services in Panama:

- Supply of goods: the accrued price of the good;
- Supply of services: the price of the service. Expenses incurred in relation to the supply of services are not taxable as long as they are duly documented;
- Rental of movable goods: the taxable amount is the greater of the agreed price or the depreciation plus 15%;
- Rental of Real Estate: the taxable amount is the greater of the agreed price in the contract or the invoiced amount;
- Barters (exchange of goods, services, or goods with services): the taxable amount is the greatest value of the exchanged goods or the value of the services;
- Imports: the taxable amount is the cost, insurance and freight (CIF) value plus the amount of tax, duty, right, and contribution paid on the imported goods. If the CIF value is unknown, the taxable amount is calculated based on the FOB value plus 13.5% of the cost of freight and 1.5% of the cost of insurance.

5.2. Exchange Rate Rules

There are no specific provisions on this topic.

5.3. Rounding Rules

There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate

The standard rate for VAT in Panama is 7%.

6.2. Increased Rate

The following products are subject to an increased VAT rate in Panama:

- Alcoholic beverages and public lodging services (10%)
- Tobacco and its derivatives (15%)

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

Activities related to the supply and imports of the following goods:

- Farming products in natural state;
- Goods within the Free Trade Zones, or those transferred through the endorsement of documents before they enter Panamanian Customs territory;
- Soft drinks;
- Crude oil, fuel, and related products, except lubes;
- Certain fertilizers;
- Pests controllers and other similar products;
- All the seeds used for crop purposes;
- Barbed wire;
- Hand tools used for harvesting and cropping;
- Newspapers and magazines (excluding pornography);
- Notebooks, textbooks, pens and other similar goods used for school;
- Tap water provided by a public institution or other similar public service entities;
- Certain medicines and pharmaceutical products;
- Foreign currency, stocks and public or private securities;
- Transfer of property in pre-nuptial agreements, such as contribution or division of conjugal goods;
- Expropriations, supplies made by the State, unless done by industrial or commercial businesses from the State;
- Adjunction of goods within trials; and
- Negotiable instruments and securities transfers.

Activities related to the supply of the following services:

- Health services;
- Home rentals longer than 6 months;
- Services related to education provided that the service provider is authorized by the Ministry of Education;
- Loans given to the Government of Panama;
- Cargo or passenger transport;
- Production, transmission and distribution of electric energy;
- Fixed residential telephone services;
- Postal services supplied by the Government of Panama;
- Gambling in casinos and hippodromes;
- Insurance;
- Internet services for residences and educational institutions;
- Sewage and cleaning services provided by public institutions;
- Sports events made by institutions recognized by the Sports National Institution;
- Restaurant services provided that alcoholic beverages are neither sold nor consumed within its premises;
- Social communication services; and
- Logistics services rendered in free zones to cargo whose destination is abroad.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Export of tangible goods is zero-rated for VAT purposes. The sale in the local market of certain pharmaceutical, childcare products and food are deemed exportations, under certain conditions, which can be credited against income tax advance payments.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a taxable person can be offset against output VAT, provided that it is attributable to taxable transactions and certain additional requirements are met. Input VAT generated at start-up stage can also be recovered.

In the event that VAT input relates to transactions within the VAT scope and exempt transactions, such VAT input will be recoverable using a pro rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-established persons are not liable for VAT when they supply services within Panama. For such purposes, the acquirer of the services must withhold VAT that would be considered as part of the invoiced value.

9.2. Registration for taxable persons not established in the country

Registration is not needed because the purchaser is responsible for withholding VAT.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

Taxpayers with a taxable presence in Panama for purposes of VAT cannot be exempt from registering, even if the taxpayer is not a collector of VAT.

9.7. Joint Liability

There is no joint liability for registration; however, business transfers may trigger joint liability issues.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is required to charge and account for VAT on its transactions. For imports of services or intangible goods, VAT is self-assessed by the local person liable for VAT.

Withholding agents are also required to account for taxes withheld in their records.

They are required to file a return and remit payments within ten calendar days of the accrued day of the withholding.

A taxpayer is liable for VAT if its total average of monthly invoices during the tax year is greater than USD 3,000 or if the taxpayer deems that its total average of monthly invoices will be greater than USD 3,000.

10.2. Registration

There is no special registry for VAT; however, taxpayers are required to declare before the Unique Taxpayer Registry or RUC (Spanish acronym for “Registro Único de Contribuyentes”) that their supplies are subject to VAT.

10.3. VAT Identification Number

For business entities, the RUC is the registration number assigned by the Public Registry (this number certifies whether an entity is duly incorporated). The RUC number also includes a validation digit.

For Panamanian individuals, RUC is their Identification Number plus a validation digit. Foreigners must submit a request to the Tax Administration in order to get an identification number in the RUC, which begins with "8-NT" where NT stands for Taxation Number.

10.4. Tax authority

The VAT tax authority is the General Directorate of Revenues or DGI (Spanish acronym for "Dirección General de Ingresos").

Tax Authority is entitled to perform audits to ensure tax compliance. This is generally done by reviewing the taxpayer's accounting records and tax returns. If assessments are issued as a consequence of an audit, DGI may require payment of unpaid taxes and certain corresponding tax penalties.

10.5. Invoicing

10.5.1 Valid Invoice

According to Law 72 of 2011, all the invoices issued in support of supply of goods or rendering of any service should be issued by a new printing device dully authorized by the Tax Authorities.

There are some exceptions to this obligation, in the case of small traders and service providers which during the previous fiscal year have generated an average monthly gross income not exceeding B/.3, 000.00 and annual gross revenues have exceeded the B/.36, 000.00, may request exception of the use of the printing device.

It is important to note that this process is not automatic, therefore the taxpayer must request the exception before the tax authorities and be subject to their verification. There is also a temporal authorization of non-use of equipment for companies with massive invoicing according to Resolution No. 201-11902 published on Official Gazette No. 26924-A from December, 2011:

- Commercial activities whose monthly invoicing is B/. 85,000.00 or more, are exempted from the use of the printing device until there are equipment's with the technical requirements that are needed for their large volume.
- This exception covers Utilities, Telecommunications, Cable and Wholesale Distributors. The invoice should include the following information:

1. The name of document, if it is invoice or receipt
2. Taxpayer ID number of the company
3. Consecutive and unique numbering
4. Number of registry of the printing device
5. General Information of the place of issue
6. Date of issue of the invoice
7. Description of the transaction that is perfected
8. The breakdown of the taxes included in the transaction
9. The individual price of each product or service included in the invoice
10. The fiscal logo
11. Additional expenses

All the invoices should have a numeric order, registry and colors for the use of branches and subsidiaries, points of sale and identification acronym if applicable. Also must mention if it is considered a VAT collector as well as any other formal aspects that allow control, registry and accounting of the VAT taxed or exempted.

Some activities exempted of the use of printing device are:

1. Agricultural activities whose gross taxable income is less than USD 250,000.00 in a fiscal year
2. The transfer of real estate and other properties that are dully registered.
3. Public transportation services
4. Transport of petroleum goods

5. Banking operations
6. Stock market operations
7. Dependence labor relations according to the Labor Code
8. Crafting services
9. Peddling services
10. Leasing activities dully registered at the Ministry of Housing
11. Maintenance payments in case of horizontal properties
12. Income belonging to non-profit associations dully registered at the Tax Authority offices
13. Maritime institutions that regulate the marine activities.
14. Hostels that have less than seven rooms
15. Any other activity that has a low volume due to their nature

Also some entities not obligated to have this printing devices are:

1. Nonprofit organizations dully registered as such before the Ministry of Govern and Justice.
2. Purchase of importing liquefied local dealer.
3. Gas stations pending the availability of wireless devices.
4. Freight Companies, pending the availability of wireless devices.
5. Companies whose activity is car rental (will only use the device for their daily closure of the operations).
6. Toll stations whose owner is the National Entity of Highways.

In the case of Free Zones all internal commercial transactions performed inside a Free Zone must be supported by a fiscal invoice (issued by this new printing device).

In Panama we have Colon Free Zone, in this case the invoicing must be supported by the Customs Liquidation and the Electronic Document of Commercial Movement (DMCE).

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Invoices can be preprinted by an authorized print shop or by the taxpayer.

10.5.3. Electronic Invoicing

Electronic invoicing was established by the Electronic Commerce Act. The Tax Authority is responsible for authorizing the use of invoicing systems and taxpayers may submit a request to use a specific electronic invoicing system.

On February 2018 the DGI authorized a limited list of companies as a Pilot Plan to implement the use of electronic invoices, and also published the Data Sheet including the format, procedures and standards related to the use of electronic invoices during the Pilot Plan.

10.6. Credit notes and debit notes

There is no legislation regarding credit and debit notes; however, they are generally used in the same manner as invoices.

10.7. Books and Accounting Registers/Records

Books must be kept current. Registries are generally considered current if the registries are made within 60 calendar days following the close of the month in which the transaction was made.

Although taxpayers are not required to keep a book for VAT purposes, it is, however, mandatory for taxpayers to have a special account named “TESORO NACIONAL - ITBMS” (National Treasury - VAT) in order to register VAT credits and debits and “ITBMS cuenta gastos” (VAT expense account) in order to register paid VAT that does not produce a credit.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The retention period is five years from the end of the period to which the documents relate.

10.8.2. Format of Archiving

Documents can be archived electronically, upon authorization of the Tax Authority.

10.8.3. Place of Archiving

The books must be located in Panama.

10.9. Supporting documentation

In order to support VAT credits, taxpayers must keep every valid invoice in which the VAT credit is accounted. Every supply must be also documented with their corresponding invoice for a period of up to five years.

10.10. Tax period and VAT returns

As a general rule, VAT return is due within the first 15 calendar days of the next month to be reported.

10.11. Due Date for payment of VAT

The due date for the payment of VAT is the same as the due date of the VAT return.

10.12. Refunds of VAT

VAT is not refunded unless the taxpayer is an exporter of goods, local supplier of food, some childcare products or medicines or the credit arises from a VAT overpayment on imports.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

If taxpayers make supplies of goods or services not subject to VAT, the taxpayer must pay a stamp tax on the supplies and file the corresponding stamp tax returns.

If the taxpayer has a total amount of invoices greater than USD 1,000,000 a year or assets greater than USD 3,000,000, the taxpayer must report on a monthly basis the total amount purchases of goods and services purchased as well as imports.

11. Auditing

11.1. Auditing

The DGI audits taxpayers on a sporadic basis. The statute of limitations for VAT audits is five years.

11.2. E-Auditing

The DGI regularly performs electronic verifications of tax returns with the information provided by the taxpayers.

12. Penalties and risks for non-compliance

12.1. Penalties

Payments done after 60 calendar days of the due may result in a 10% surcharge plus interest (2% over the commercial interest market reference) and a penalty ranging from USD 100 to USD 500 for first time offenders and from USD 500 to USD 5,000 for repeat offenders. Taxpayers who exceed the 60 calendar days following the due date may be considered as committing tax fraud.

Taxpayers who fail to file a tax return may be sentenced to 2 to 5 years of prison or levied a penalty that is equal to five to 10 times the VAT amount due.

12.2. Interest on late payments

Interest on late payments is equal to the market reference commercial interest plus 2%. (average of 10% annualy over the original amount)

12.3. Joint Liability

There is joint liability in the case of business transfers.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The statute of limitations for claiming VAT by the Tax Authority is five years from the due date of the related VAT return.

13.2. Recovery of VAT by the taxable person

The statute of limitations to recover VAT by the taxpayer is five years from the due date of the related VAT return.

14. Rulings and Decisions

Taxpayers may request rulings before the Tax Authority on an ad-hoc basis that can support the VAT treatment applied to a specific transaction. Tax Authority's decisions are not binding.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

The Tax Authority's main anti-avoidance measure is to perform electronic cross-checks of the information provided by third parties in their tax returns with the information provided by the taxpayers in their return. The filling of the purchases report, in which large taxpayers report their purchases, provides the Tax Authority key information about the taxpayers.

16. Other Rules

Aside from withholding regimes and special exemptions, there are no other special regimes in Panama for VAT purposes.

16.1. VAT withholding regimes

16.1.1 Mechanisms of Withholding for the VAT (Executive Decree No. 594 Official Gazette No. 27935-A of December 24, 2015)

The invoices issued from November 1, 2015 are subject to the retention of 50% of VAT, which will apply by the withholding agents assigned.

Not applicable withholding if the beneficiary is a withholding agent appointed by the Tax Authorities.

The entities that handle debit or credit cards shall apply withholding of 2% of the total transaction.

Retention shall not apply to suppliers of goods and services, business or individuals affiliated entities managing debit or credit cards that are exempt of VAT tax.

16.1.2 Withholding agents

The withholding agent must issue certificates for the withholding made in the month to suppliers in which the retention is caused. The withholding agents must be assigned by the Tax Authorities, is not possible a self-designation.

For the fiscal period 2017 and subsequent, the withholding agents who for the first time are included in the list, will have to practice the withholding from the month of January following the date of publication of the above mentioned list, and settled and paid the amounts withheld in the same filing date of the monthly statement of the VAT. Regardless of the form of payment using the withholding agents with their suppliers, the withheld amounts must be delivered to the Treasury in cash.

The withholding agents must have within its accounting a special debit account, called "VAT Retention", that reflects the movement of the amount withheld of VAT, which will have the following management:

- Credits: the amounts withheld during the period, under the terms established by the law, regulations and resolutions.
- Debits: the amount of the withholding agent pay at the General Directorate of Revenues those who are or are no taxpayers of VAT, and the immediately preceding fiscal period accomplish the criteria of annual purchases of goods and services equal or exceed ten million dollars (B/. 5,000,000.00).

The withholding agents will have to pay or deposit the withheld amount, as well as to declare the amounts withheld and report to the General Directorate of Revenues on amounts and subjects retained, no later than the day fifteen (15) of the following month in which the withholding was carried out.

16.1.3 Debit and credit card sales report

The entities of debit and credit cards, must submit monthly to the General Directorate of Revenues, reports related to the sales and commercial establishments or persons affiliated with the system of payments with credit and debit cards, within the first fifteen (15) days of the month following the reported.

16.1.4 List of withholding Agents

The list of applicable VAT withholding agents for 2017 was established by Resolution No. 201-4050 of September 1st of 2017 (published in the Official Gazette No. 28110 of September 5th of 2016).

The General Directorate Revenues should perform no later than September 1st of each year, publication of the list of the withholding agents, so that it is applied in the following fiscal year, which can be consulted in the following link:

https://www.gacetaoficial.gob.pa/pdfTemp/28110/57761.pdf.

For goods or services supplied to persons not established in Panama or to joint ventures or partnerships in fact, the local supplier must withhold VAT and pay it within 10 calendar days.

16.2. Other regimes

Certain taxpayers are exempt from VAT, such as City of Knowledge and Diplomatic and Consular Representations. In order to be exempt from VAT on these transactions, taxpayers must keep a copy of the resolution granting VAT exemption to the purchaser.

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Paraguay

1. Scope

Value Added Tax ("VAT") was introduced on 1 July 1992 and applies on Paraguayan territory. It was partially modify in 2004 (Law N°2421/04) and the new rules were applied since 2006. . Also, in 2013 were included some modifications applied since 5014.

The VAT shall apply to supply of goods or services and the importation of goods, excluding personal services performed under employment.

2. Taxable Persons

2.1. Definition of Taxpayer

- Individuals supplying professional services independently of their taxable income, and individuals supplying personal independent services, when their gross income in the previous year was greater than the average of a monthly minimum salary;
- Cooperatives and associations;
- Persons engaged in commercial, manufacturing or services businesses;
- Partnerships and private entities in general, individuals domiciled or partnerships constituted abroad, including those engaged in imports and exports;
- Entities of social assistance, charity or beneficence, federations, foundations, corporations, etc; in the event that they perform commercial activities.
- Independent government entities, government enterprises and decentralized agencies engaged in any of the businesses listed above; and
- Any other person importing goods not defined in the previous paragraphs.

2.2. VAT Grouping

There are no VAT Grouping provisions in Paraguay.

3. Place of supply

3.1. Goods

The sale of goods in the national territory are taxable in Paraguay.

3.2. Services

In the case of technical assistance, service occurs when it is used or profited in Paraguay; in the case of the sales assignment of intangible assets, service occurs when such goods or rights are used, even partially, within the national territory. Also, in the case of the sale of goods it the tax obligation arise when the buyer takes possession.

In the case of insurance and reinsurance, service is deemed to takes place in Paraguay when the coverage includes risks within Paraguay or when the insured goods are located in Paraguay or insured persons are residents of Paraguay.

4. Chargeable event, chargeability of tax

4.1. Goods

In the case of the supply of goods, the tax obligation arises upon delivery of the goods, or the issuance of an invoice or equivalent act, whichever happens first.

4.2. Services

The tax obligation arises upon issuing an invoice, upon full or partial payment for the supplied service, upon the expiration of the payment term, or upon the termination of the service.

In the case of public services (i.e., electricity, gas, water, etc.), the tax obligation arises on the due date of the invoice.

4.3. Imports

In the case of imports, the tax becomes payable upon registering the entry of the goods with Customs.

5. Taxable Amount

5.1. Goods

It is the price of the goods invoiced. Since 2014 the Law considers that this price does not include the VAT. However, the taxpayer has to include the amont of the VAT in the voucher, when it issue the invoice.

In case of discounts, the VAT has to be paid on the net price (original price less the discount). However, the discount must be reasonable according to market practices.

In the case of self-consumption or use, promotions, free transactions or when the price is unknown, the price will be determined as the market value and the taxpayer has to issue the invoice and include the amount of VAT. Even though the taxpayer does not obtain revenues from these transactions, the VAT has to be paid, due to it taxes the free transactions, services, etc.

When the price cannot be determined, the price is calculated by adding a 30% markup to the cost of goods. To establish net price and to determine the price of goods used or consumed for non-business purposes, the same rules apply as in the case of business income tax, in addition to any special provisions.

5.2. Services

The taxable amount is the price of the services billed. When services are subject to tariffs these will be considered the value of such services for the purposes of the tax.

In the case of services subject to fixed price scales, such prices shall be deemed to be minimum prices.

5.3. Importation

The taxable amount will be determined according to the customs value reflected in foreign currency.

In all cases, the taxable amount shall include the value of taxes applicable to the transaction, excluding the VAT.

5.4. Exchange Rate Rules

There are no provisions for VAT purposes regarding the exchange rate.

5.5. Rounding Rules

There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate

The standard tax rate is 10%.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

The reduced rate is 5% and is applicable to:

- Cession of use or transfer of real estate;
- Transfer of agricultural products, fruit, horticultural and live animals, of the goods coming from hunting and fishing, alive or not, virgin or crude vegetable oil degummed and transfer of household consumable products, such as milk, rice, pasta, oil, vegetables, eggs, meat, flour, salt, etc.of the following items of the family basket: rice, noodles (spaghetti), edible oils, yerba mate, milk, eggs, uncooked meats, flour and iodized salt;
- Supplies of medicine.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

- Foreign currencies, government or private bonds, securities including shares of stock;
- Goods received through inheritance;
- The assignment of credits;
- Magazines, books and journals;
- Interest on government or private bonds;
- Certain intermediation transactions in the financial sector regulated by the Banks and Financial Institution Laws;
- Services supplied to permanent or temporary diplomatic officials to embassies, consulates and international organizations accredited to the national government under current legislation;
- Political parties, social welfare, charity, educational institutions and those devoted to scientific and literary creation, the arts, labor unions, physical training and sports organizations, associations, corporations and other entities endowed with legal existence provided their earnings or surpluses are not distributed among their associates or members, and which shall be devoted exclusively to the aims they were created to serve;
- Religious entities recognized by competent authorities, on acts related exclusively to worship and religious services.

The following imports are exempt of VAT:

- Travelers' baggage;
- Diplomatic service imports;
- Goods applied directly to the productive cycle in manufacturing or farming for projects benefited by the incentives offered under Law.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

The exports of goods are subject to a zero tax rate. The input credit related to export transactions may be recovered as a tax credit. A return must be filed along with supporting documents before the tax authorities in order to claim such credits. The amount of the credit to be recovery is limited to 50% in case of export of agricultural products.

8. Deductions

8.1. VAT Recovery

A tax debit is the sum of taxes accrued (invoiced as opposed to collected) from taxable transactions each month.

A tax credit is the sum of taxes included in purchases of goods and services on the local market and imports during month period. The tax that shall be paid is the balance representing the difference between tax debits and credits.

Deduction of any tax credit is conditioned to such credit arising from goods or services related directly or indirectly to the transactions subject to taxation.

When the tax credits exceed tax debits, the excess may be carried over to future returns. However, during the last tax period of the year, carrying over excess input credits will not be allowed if they are related to transactions taxed at the rate of 5%. In this case, the excess will become a cost for the taxpayer.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT except that if they have a permanent establishment in Paraguay.

9.2. Registration for taxable person not established in the country

Paraguayan legislation does not provide any registration mechanism for non-established businesses. The tax will be paid through the Whithholding of the corresponding amount by the local taxpayer.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

The registration process as taxpayer could demand 1 day as maximum. In the event that it can not registered as VAT taxpayer, it could be done through the web site using the password of the Taxpayer.

9.5. Alternative procedures for-non established taxable persons

These persons are not obligued to be registered.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is the person that is liable to charge and account for the VAT on its transactions, except for the case of importation of services or intangible goods. In this last case VAT is self-assessed (reverse charged) by the local person liable to VAT.

Withholding agents are also obliged to account for withheld taxes, including the VAT, in their records, and they must file a return and make payments on a monthly basis.

VAT must be withheld by Paraguayan residents when they acquire goods or services from foreign entities or non-residents.

10.2. Registration

Resident business or entities that want to perform commercial activities in Paraguay, should obtain a tax identification number which is used for all tax purpose including VAT.

To register, the following must be presented to the tax authorities:

- Persons: identification card, documentation related to the place of residence (i.e. public services invoice). In addition, persons must fill out a form indicating the activity that they will perform;
- Entities: certificate of incorporation, by-laws, identification documents of the legal representative, power of attorney, documentation related to the place of residence (i.e. public services invoice). In addition, entities must fill out a form indicating the activity that they will perform.

10.3. VAT Identification Number

The Tax Identification Number is used for all tax purposes, including VAT.

In the case of person, the tax identification number is the same number as the personal identification number plus a validation digit.

For business entities, the tax number consists of eight digits plus a validation digit.

10.4. Tax authority

The Sub-secretariat of Tax (Subsecretaría de Estado de Tributación del Ministerio de Hacienda - SET) is a division of the Treasury Minister which is responsible for the administration of the VAT and all the local taxes.

SET is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are issued as a consequence of an audit, SET is entitled to assess unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the invoices regulations. This regulation provides the specification for the format, dimensions, data elements and other mandatory requirements that invoices and other tax documents must comply with for tax purposes.

Invoices and similar documents issued by non-residents are not required to comply with such requirements for VAT purposes.

The invoice has to contain the following information:

- Name, address and tax identification number of supplier;
- Transaction date;
- Tax identification number and name of the purchaser;
- Description of transaction, supplied goods or services and the corresponding unit price;
- Amount of the VAT;
- The period of use of the invoices.

The invoices have to be used by the taxable person within a maximum period of one year, starting from their printing date. If the invoices are not used in this period, they must be cancelled in the terms stipulated in the legislation.

Invoices can be either issued in local currency or US dollars. However, accounting registers must be recorded in local currency, applying the corresponding exchange rates rules.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Outsourcing and self-billing are not applicable in Paraguay

10.5.3. Electronic Invoicing

Taxpayers have to request an authorization from the tax authorities to use electronic invoices. The taxpayers then will be required to submit information regarding the data and software use for this purpose. Recently, the Tax Authorities is regulated the aplicacien of Electronic invoice, it will be in force in July, 2019.

10.6. Credit notes and debit notes

Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued. This document will be subject to the Electronic invoice regulations.

10.7. Books and Accounting Registers/Records

The taxpayers must keep the VAT purchase and VAT supplies books in which transactions are to be recorded.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Records have to be kept five years from the date the documents are issued.

10.8.2. Format of Archiving

Records cannot be kept solely in electronic form. Paper copies are still required to be kept at the taxpayer's domicile. However, it is possible that it changes when the Electronic invoce regulation be in force.

10.8.3. Place of Archiving

Records must be stored in Paraguay, at a place of business place or at another site, such as a warehouse, etc.

10.9. Supporting documentation

Persons liable for VAT are required to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, the tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns

Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions.

Monthly VAT returns' due dates are set forth in a tax calendar published by the tax authorities. The calendar is set out according to a digit that is linked to the last digit of the taxpayer's identification number. Each digit (0 through 9) has a calendar date assigned in which the returns must be filed.

10.11. Due Date for payment of VAT

The VAT payment is due on the same date the return is filed according to the tax calendar.

10.12. Refunds of VAT

Local businesses can obtain a refund where input VAT exceeds output VAT at the end of each monthly period. It can be used to following period to offset the credit and debts

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)

Certain taxpayers must also submit monthly purchase listings, which include information about transactions with suppliers of goods and services (i.e., tax identification number and name of the supplier, price of the transaction, amount of the VAT, etc.) They are assigned by the Tax Authority for this purpose and have to send a monthly specific report called "Hechauká".

11. Auditing

11.1. Auditing

The auditing process is performed by the tax authorities when there is a certainty or suspicion of tax evasion.

Additionally, the taxpayer may be audited by External Auditors according to a draw process that is made by the tax authorities, in the event that the annual gross profit be equal or higher than US$ 1,2.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Penalties and fines for late payments are assessed with interests ranging from 4 to 14%. The tax authorities establish a range which determines the rate of the penalty depending upon the length of delay of payment or the amount of tax debt.

In addition, there are penalties for lack of compliance when filing inadequate forms. The amount of this last penalties ranges from USD 10 to USD 200.

12.2. Interest on late payments

In addition to the penalties, the late payment is subject to interest. Interest rate is 1.5% per month.

Interests are calculated from the day after the payment due date to the payment date.

12.3. Joint Liability

There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The tax authorities may audit the taxpayer records for the last five years from the VAT due date.

13.2. Recovery of VAT by the taxable person

The taxpayer may request to the tax authorities refund of tax credits for a period of four years counted from the date in which the credit was due.

14. Rulings and Decisions

The Tax Law establishes that a taxpayer may request an opinion to the Tax Authorities regarding any tax law interpretation. The Opinion should be issued within a period of 90 days. This opinion may be appealed to the Judicial Authority.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

There are no specific provisions on this topic.

16. Other Rules

16.1. VAT withholding regimes

There are no specific provisions on this topic.

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Peru

1. Scope

Value Added Tax (VAT) was introduced in Peru in 1973. There is no federal system, which means that VAT rules apply nationwide (unless it is established otherwise by the government) and its collection constitutes part of the country's Public Treasury.

There are free trade zones where VAT does not apply or zones subject to certain benefits (e.g., businesses settled in the Amazon Rain Forest Zone). A transaction in those territories may become taxable in cases where the customer resides outside the free trade zones or benefit territories.

The following transactions are subject to VAT:

- Sales of goods;
- Supply of services in Peruvian territory;
- Use of services in Peruvian territory;
- Construction contracts;
- First sale of real estate property performed by the builder; and
- Imports of goods.

2. Taxable Persons

2.1. Definition

Taxable persons are individuals and/or legal entities that perform business activities, and those persons that perform taxable transactions on a "regular basis." This "regularity" has to be determined by the Tax Authorities based on the nature, conditions, amount, frequency, volume and/or periodicity of the operations performed.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Peru.

3. Place of supply

3.1. Goods

The place of supply rule is where the goods are physically located at the moment in which the ownership is transferred to the customer or purchaser.

This rule includes goods that are temporarily outside the country at the moment of performing the sale or when goods to be imported have already been dispatched for final import into Peru, as well as goods that are registered in Peru for any legal purpose.

Intangibles are deemed to be transferred within the Peruvian territory whenever the parties performing the operation are local residents.

The first transfer of real estate performed by the constructor is subject to VAT only when located within the Peruvian territory.

3.2. Services

The place of supply of services is where they are physically performed for the user. This criterion also applies for construction contracts and royalties.

Services provided by non-residents to local persons liable to VAT are taxable when economically used within the Peruvian territory.

4. Chargeable event, chargeability of tax

The chargeable event (or tax point) for supplies subject to VAT is linked to the moment where invoices have to be issued by the taxpayer, pursuant to the invoicing rules. The chargeable events are:

4.1. Goods

- Sale of movable goods: When payments are made (totally or partially) or when goods are delivered to the purchaser, whichever occurs first. In supply of business property for private consumption, the tax point is when the goods are effectively withdrawn for consumption;
- Sale of intangibles: The tax becomes chargeable when payments are made or in the due dates established in the purchase contract, whichever occurs first;
- First transfer of real estate: When payments are made, totally or partially (the tax applies on the portion paid).

4.2. Services

- Supply of services: When payments are made (totally or partially) or services are completely rendered. Continuous use of goods is also taxable when payments become due.
- Supply of services by nonresidents: When the invoice is recorded in the accounting books (purchase ledger) or when payments are made, whichever occurs first;
- Construction contracts: When payments are made, totally or partially.

4.3. Imports

- On the import of tangible goods: When filing the corresponding import declaration (customs clearance).
- On the import of intangible goods: When the sale value is paid (totally or partially) or when the invoice is recorded in the accounting books (purchase ledger), whichever occurs first.

5. Taxable Amount

5.1. Goods and Services

As a general rule, the taxable base for sales is the consideration (sales proceeds) agreed by the parties for a transaction.

Self-consumption is taxed levied on the value of the goods agreed between third parties at the moment in which they are self-consumed. In absence of comparable transactions, fair market rules apply.

Adjustments to the sales proceeds must be applied to account for bonuses, discounts and similar commercial reasons, provided certain conditions are met (i.e., goods are returned and retribution is refunded). These adjustments will take effect in the period in which they occur, if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

5.2. Importation

In case of tangible goods, the taxable amount is the value used at customs, plus the duties and other taxes applicable to imports (except the VAT) in accordance with the Customs Valuation Agreement of the World Trade Organization ("WTO"). In case of intangible goods, the taxable amount is the consideration (sales proceeds).

5.3. Exchange Rate Rules

Although the taxable amount on transactions can be expressed in a foreign currency, tax returns must be filed in local currency (Peruvian Sol). For such purposes, taxpayers shall convert each item included in their tax return by using the exchange rate published by the Superintendent of Banking and Insurance in force at the triggering event date.

5.4. Rounding Rules

The VAT payable has to be rounded up (0.5 to 0.9) or down (0.1 to 0.4) into whole units within the monthly returns. This rounding rule is applicable for every tax purpose.

5.5 Defer VAT Payment for MYPES

Micro and Small enterprises (MYPES) can defer the payment of the VAT up to three months after the due date of the obligation to declare their VAT Returns, in case their annual sales do not exceed 1,700 tax unit. (1 Tax Unit equals PEN 4,150).

(March 2018: PEN 3.25 per USD 1)

6. Rates

6.1. Standard Rate

The Peruvian VAT has a standard rate of 16%. However, there is an additional Municipal Promotion Tax, imposed at the rate of 2%, which is added to the VAT rate. Therefore, the VAT rate is commonly referred as being equal to 18%.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There are no reduced rates.

7. Exemptions

7.1. Exemptions with no right to deduct input VAT

Exempt transactions are listed in Appendixes I and II of the VAT law and are applicable for determined periods of time. Examples of exempt transactions include:

- Sales of determined agricultural goods;
- International cargo transportation;
- Cultural events;
- Public transport of goods and people;
- Life insurance policies.

As a general rule, non-taxable transactions (also known as "out of the scope" transactions) also affect the recovery of input VAT. However, some input VAT related to certain out-of-scope transactions, such as VAT paid on overhead or multipurpose supplies related to taxable transactions, may still be fully recovered. Example out of the scope transactions include:

- Corporate restructuring, pursuant to the General Corporate Law (excluding the transfer of going concern);
- Attribution of goods contributed in order to operate a joint venture, and obtained as a result of a joint venture' performance;
- Financial services (with some exceptions);
- Interest and capital gains derived from deposit certificates issued by the National Bank;
- Import of goods donated to religious entities;
- Interest of securities issued through the stock exchange by public offering; and
- Interest of securities acquired through centralized mechanisms of trading.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Export of goods and services are considered as exempt with the right to deduct input VAT. VAT receivables related to these transactions can be either used as credit against output VAT or refunded pursuant to a special procedure.

Goods are considered exported where, as part of the conditions of the supply, the goods need to leave the country. Services, on the other hand, qualify as exports when they meet the following requirements: (i) The operation must have valuable consideration, (ii) the exporter must be a domiciled individual or entity, (iii) the user or beneficiary must be a non-domiciled individual or entity; and (iv) the service must be consumed or used abroad Peru.

It should be taken into account that, in addition, the domiciled Company providing the services should be previously registered in the Service Exporters Registry of the Tax Administration, for purposes of qualifying such services as an export.

However, VAT law specifices a list of services that qualify as an export of services withouth having to comply the abovementioned requirements. Examples of such services include:

- The rendering of services which are partially carried out abroad and partially carried out in Peru by taxpayers that generate income subject to income tax (third category income-corporate income tax), provided that its use, exploitation or utilization takes place abroad
- Passenger or merchandise transport services that the national shippers or national shipping companies carry out abroad Peru, as well as the services of air cargo transport that are carried out abroad Peru.

8. Deductions

8.1. VAT recovery

The VAT Law follows a debit/credit system and, input VAT may be offset with output VAT. Any VAT credit that is not offset in a certain month, can be carried forward (at historical values) to be offset against any future output VAT. It is to be noted that VAT credit cash refunds are only available for exporters and some entities at a pre-operative stage, provided certain conditions are met.

In every case, VAT receivables must correspond to purchases that qualify as a deductible cost or expense for income tax purposes, even if the taxpayer is not liable to income tax.

When input VAT relates to taxable transactions, exempt transactions, and/or transactions that are out of the scope of VAT, such receivables can be recovered using a pro rata calculation.

9. Person able to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT if they have a permanent establishment in Peru or if they carry out VAT activities in Peru through an establishment, other than a permanent establishment.

9.2. Registration for taxable person not established in the country

Tax registration is not required for non-residents, unless they meet the requirements for any of the rules to be considered a resident in Peru (establishment of a branch, permanent establishment, among others).

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

The purchaser of goods is joint liable of the VAT, when the seller has no domicile in the country.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons able to account for VAT

The supplier of taxable transactions is the person responsible to charge and account for VAT. This rule will not apply where the supplier of services is a non-resident, in which case, VAT has to be self-assessed (or reverse charged) by the local consumer or user of services.

Where a VAT withholding system applies, withholding agents are also able to account for withheld taxes and must file the corresponding withholding returns on a monthly basis and make payments to the Tax Authorities.

10.2. Registration

There is no specific registration for VAT purposes. There is a single registration process for tax purposes, which is the Taxpayers Unique Registry (Registro Único de Contribuyentes - RUC). There are no thresholds for VAT registration, but only the condition of qualifying as a person subject to taxes in Peru.

The person Hable to VAT has to file a registration form before the Tax Authorities.

In addition, the following documents have to be filed with the Tax Authority (SUNAT):

- Copy of the taxpayer's or tax representative's Identification document;
- Copy of utilities receipts from the last two months, or any other document identifying its domicile; and
- Certificate of incorporation issued at the Public Registry and public deed of incorporation, if it corresponds.

Original documents have to be shown to the Tax Authority's representative taking care of the registration process.

The tax registration is granted in the same day. Nevertheless, the Tax Authority will perform a small audit (non tax) to verify within the next few weeks if the registration information that has been reported is valid. If not, the registration will be cancelled.

10.3. VAT Identification Number

The Tax ID number is the Taxpayer Registration Number (RUC) assigned by the Tax Authorities to each taxpayer. The Tax ID Number format consists of 11 numerical digits and it is automatically assigned by SUNAT.

10.4. Tax Authority

The Tax Administration National Superintendence ("Superintendencia Nacional de Aduanas y de Administración Tributaria" - SUNAT) is the Tax Authority responsible for the administration of VAT.

SUNAT is entitled to perform audits to ensure tax compliance, by reviewing the taxpayers accounting records and tax returns as well. If assessments are raised up as a result of an audit, SUNAT is entitled to challenge unpaid taxes and impose the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the invoicing regulations. In the regulations the format, size, expiration date and other mandatory information that invoices and receipts must meet for tax purposes are provided.

The following information must be included in the invoices:

- Supplier's name, address, place of establishment, tax identification number;
- Printed indication of the type of document (i.e., Invoice - "Factura");
- Document number - serial and sequential number;
- Printer entity information: name, addresses, tax identification number and printing date;
- Printing Authorization number issued by the tax authority;

- Purchaser's name, address, place of establishment, tax identification number;
- Description of the sold goods or supplied services that are included on the invoice;
- Unit price for each sold item and service, tax amount and total amount invoiced;
- Other charges and taxes;
- Shipment or delivery document numbers; and
- Date of issuance.

Similar document such as payment vouchers, receipts or tickets issued by cash registers, and others must comply with additional requirements.

Invoices or similar documents issued by non-residents are not required to fulfill these requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Tax rules allow taxpayers to take care of billing or to outsource this work to third parties (authorized printing works). Nevertheless, in any case the invoices have to be printed with the taxpayer's information.

10.5.3. Electronic Invoicing

Electronic invoicing can be performed through the Tax Administration's systems ("Electronic Invoicing SUNAT Online" or SUNAT Biller's Electronic Invoicing System). Likewise, the Tax Administration also allows electronic invoicing directly from the taxpayer's system. As from 2017, the Tax Administation has established that the objective is that all the taxpayers issue electronic invoices as a standard.

In such sense, according to the primary schedule, the Tax Administration has informed that all the companies considered as Principal Taxpayers (PRICOS), as well as the designated withholding and perception agents would be compelled to issue electronic invoices as from January 1, 2018.

10.5.4. Other documents

Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended, consigning an express reference to them.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.6. Credit notes and debit notes

Please, see section 10.5.4.

10.7. Books and Accounting Registers/Records

Taxpayers are required to keep the following books and accounting records, containing at least the information included in the Books and Registers Regulations: Cash Book, Balance Book, Journal, General Ledger, Purchase Book and Sales Book.

In addition, the following books and records shall be kept whenever required by the corresponding laws and regulations: Withholding Book, Fixed-Assets Books, and Perpetual Inventory Records.

The above mentioned books and records must be printed within a specific period of time in accordance to a calendar approved by the Tax Authority (SUNAT).

A public notary should authenticate books and accounting records before they are used. The certification must be posted at the front folio of the book.

Notwithstanding the above, taxpayers may voluntarily keep certain books electronically, provided that they comply with the requirements and formats established by SUNAT for such purposes. Likewise, SUNAT may issue resolutions establishing that certain taxpayers are obliged to keep books electronically.

10.7.1. Book-keeping

Books and registers should contain the following header information:

- Corporate name;
- Book or record denomination;

• Period;

• Taxpayer registry identification.

Transactions should be registered in Spanish and in local currency, chronological or correlatively, without any amendments or alterations, and in accordance to the General Accounting Plan approved in Peru.

In addition, amounts registered should be totalized at the end of every folio, column or account until obtaining the grand total of the period.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Tax related documents have to be stored during the same period of the statute of limitations.

10.8.2. Format of Archiving

There are no specific provisions on this topic.

10.8.3. Place of Archiving

There is no limitation regarding where documents have to be archived. However, documents should be archived within the Peruvian territory from a practical standpoint.

10.9. Supporting documentation

Persons liable to VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities additional assessments may be levied during tax audits.

10.10. Tax period and VAT returns

The VAT return period is one month, which means that a taxpayer must file 12 VAT returns per year. VAT returns must be filed according to a tax calendar that is pre-established and approved by the tax authorities and which is also linked to taxpayers' identification number. The returns have to be filed within a month following the end of the tax period to which it relates.

VAT return forms are issued by the tax authorities every year. These forms can either be filed through soft or hard copy.

10.11. Due date for payment of VAT

Any VAT due to the Tax Authorities should be paid at the same time as the monthly VAT return is filed.

10.12. Refunds of VAT

When the input credits exceed the output credits, the excess can be carried over to following periods as part of those periods' credits until they are exhausted. The excess inputs are not refunded to the business.

There are few special VAT recovery regimes applicable to exporters and to specific companies that entered into an investment agreement with the government or hold a mining or oil license.

In general terms, there is no VAT refund mechanism for non-established businesses, except for specific cases of VAT incurred in the Jungle region. Please refer to VAT Reimbursement for Jungle region within the Other Rules section below.

10.13. Additional Reporting (statements)

Statement of transactions with third parties (DAOT): This is a report that has to be submitted with the Tax Authorities by taxpayers that are appointed as "Principal Taxpayers" as well as those obliged to file at least a VAT tax return during the tax year, provided their total purchases or sales are approximately above 75 Tax Units.

Exports, imports, services supplied by non-residents and supply of business property for private consumption do not have to be reported.

10.14. Other measures

Banking tax rules: As a general rule, taxpayers that perform purchases that exceed USD 1,000 or PEN 3,500 are obliged to pay the provider using a banking payment method (e.g., checks, wire transfers, among others).Otherwise, input VAT may not be applied against output VAT.

However, the VAT law has established that payments for an amount of 3 Tax Units or more related to the following operations would only

be charged using a banking payment method (even when partially carried out):

- The constitution or transfer of property rights over immovable property.
- The transfer of ownership or constitution of property rights over new or used vehicles (either air, sea, or land).
- The acquisition, increase and reduction of participation in the share capital of a legal entity.

11. Auditing

11.1. Auditing

Tax Authorities are entitled to audit taxpayers within the statute of limitations period. During audits, Tax Authorities are entitled to review transactions and formal requirements. Where any assessment is raised, the taxpayer is entitled to either sign in agreement or appeal it. There is no specific schedule within the year to perform a tax audit and the Tax Authorities are entitled to review any of the open periods. Audits are usually performed at the taxpayer's site. Nevertheless, taxpayers are also entitled to provide the Tax Authorities with documentation by sending it through mail to their offices.

11.2. E-Auditing

The Tax Administration is entitled to perform a partial electronic audit. Such audit must take place within a period of 30 working days, counted as from the notification date.

12. Penalties and risks for non-compliance

12.1. Penalties

Below are some of the penalties related to VAT:

- Penalty for failing to register for tax purposes: one tax unit (Tax Units amount roughly to USD 1,200), confiscation or vehicle internment.
- Penalty for underpaying taxes or reporting a VAT receivable in excess: 50% of unpaid taxes or incorrect tax credit.

There are many penalties imposed for tax infractions, such as keeping incorrect records or when no records are kept at all. There are no penalties for late payments; however, as noted below under section 12.2, interest will begin to accrue the day following the tax due date.

Penalties can be reduced where taxpayers proceed to amend their returns (subject to certain conditions). Furthermore, some events may originate to apply different tax penalties.

12.2. Interest on late payments

Where there is a late payment on either tax liabilities or penalties, such amounts will generate interest as from the following day in which the tax became due. As from March 2010, the interest applicable on late payments in local currency is 0.04% per day and 1.2% per month and on late payments in foreign currency 0.02% per day and 0.6% per month.

The interest rate can be changed by the Ministry of Economy and it is more likely to be changed at the beginning of the tax year (January 1st).

12.3. Joint Liability

There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the Tax Authority

The Tax Authority is entitled to audit and assess taxes according to the following:

- 4 years: Where the taxpayer has filed the corresponding tax return;
- 6 years: Where the taxpayer has not filed the corresponding tax return;
- 10 years: Related to withholding taxes, where the withholding agent withheld the taxes and did not pay such amounts to the Tax Authorities.

In any case, the statute of limitations begins from January 1st of the following year in which the tax return has been filed.

13.2. Recovery of VAT by the taxable person

Taxpayers have a period of 4 years to request refunds of overpaid VAT.

14. Rulings and Decisions

There is a case by case rulings system for tax purposes in Peru. Notwithstanding, it is being progresivelly implemented for specific taxpayers.

Where there is a specific rule that needs clarifications, taxpayers may have access to a general ruling that will apply to all taxpayers. However, to request this general ruling a formal procedure has to be followed with the Tax Authorities and has to be referred through banking, commerce or other representative institutions.

Tax Authority's decisions on audits or claims are not binding. In Peru, only the Tax Court's decisions/rulings are binding. However, they are only binding when it is specified that they should be considered binding and certain formal requirements are met.

Moreover, decision/rulings of the Constitutional Court on tax matters can also be binding in specific instances.

15. Abuse of Law

15.1. Anti-avoidance and VAT fraud measures

As from August 2012, a general anti-avoidance rule (Provision XVI) was incorporated to the Tax Code. This new provision allows the Tax Administration to consider the acts, situations and economic activities performed, established or desired by the taxpayers, in order to determine the real nature (re-characterization) of the taxable event.

According to Provision XVI, when tax avoidance is detected based on criteria set out in the Tax Code, the Tax Administration is entitled to collect the tax debt and fines, reduce the amount of credit balance, tax losses, tax credits, or eliminate any tax advantage, and to recover any amount that may have been unduly reimbursed.

When the tax results that are more beneficial to the taxpayer are obtained through acts considered as artificial or improper and their utilization results in legal or economic effects (different from fiscal savings or tax advantages) equal or similar to the ones that would have been obtained with usual acts, the Tax Administration may apply the provision of the law that would have corresponded to the usual acts with its corresponding tax effects.

In the case of simulated acts, duly qualified by the Tax Administration, the corresponding tax provision of the law would be applied, considering the acts that are actually performed by the taxpayers.

However, the faculty of the Tax Administration to apply provision XVI of the Tax Code has been suspended, with the exception of the first and last paragraphs of said provision

16. Other Rules

16.1. VAT withholding regimes

Peru has three different tax withholding regimes with rates that fluctuate between 0.5-12%. These withholding regimes apply to specific transactions or when the Tax Authorities appoints persons liable to VAT as withholding agents.

This system is applicable to recipients of goods or services subject to VAT. Purchasers of goods and the user of services must withhold 3% of the price or fees invoiced where the price of the supply exceeds approximately USD 270. Withheld amounts can be recovered either as a credit or refund. Recipients of goods or services have to be expressly appointed as withholding agents by the Tax Authority. The rate of 3% results applicable since March 1rst, 2014 (before such date the rate was 6%).

16.1.1. VAT perception system:

This system is applied to the sale of certain goods within the country, such as mixed oil gas, carbon dioxide, among others. For this purpose, perception agents, which are previously appointed by the Tax Administration, have to withhold in advance an amount of the VAT that will be generated by its customers in future transactions with the goods. The perception rates are 0.5, and 2%.

This system is also applicable to the import of goods, where the Tax Administration acts as the perception agent. In this case, the withholding rates range between 3.5, 5 and 10%.

Amounts subject to this perception regime can be recovered either as a credit or refund.

16.1.2. Tax Obligatory Payment System (SPOT)

This system is applicable to the sale of certain goods, construction contracts and the rendering of services subject to VAT (with some exceptions).

Sales of certain movable goods are subject to this system at rates ranging from 4 to 10%, depending on the goods. As from February 2013, the first sale of real estate property performed by the builder is also subject to SPOT at a 4% rate.

In case of construction contracts, the withholding rate is 4%, whereas in case of services the rate is 10%.

The recipient of goods or services must withhold the corresponding percentage from the price of the transaction when its consideration exceeds USD 270, approximately, and deposit it in the National Bank (Banco de la Nación) account of the supplier.

Withheld amounts can be recovered either as a credit or refund, provided certain specific rules are met.

16.2. Other regimes

16.2.1. Transfer pricing rules

As of August 2012, transfer pricing rules do not apply for VAT.

16.2.2. Rain forest regime

A special tax regime applies for businesses settled in the Amazon Rain Forest Zone, through the establishment of certain benefits foreseen both in the Law No. 27037 and the VAT Law and its regulations.

The benefits related to VAT established in Law No. 27037 are the following:

- VAT exemption on sales of goods, first real state, services and construction contracts performed within this region; and
- VAT exemption on import of goods for consumption within this region.

In order to access the benefits of the Law, certain conditions have to be met. However, since the government has started a benefit and exemptions elimination policy, these benefits have been reduced and remain in effect only for certain areas and for a certain period of time.

16.2.3. VAT Reimbursement for Jungle region

The VAT Law establishes an additional benefit consistent in the refund of the VAT paid on acquisitions of goods to non-residents in this region. The goods subject to the benefit will only be those detailed in the Appendix of the Cooperation Treaty entered into between Peru and Colombia.

Taxpayers must comply with specific requirements to be enabled for this regime. An application should be filed monthly regarding the total invoices of the period for which the benefit has been requested, once the VAT return corresponding to that period has been filed.

The benefit would be applicable to commerciants which perform not less than 75% of their activities among the region.This benefit will not be applicable to the transactions involving goods that are considered similar or substitutes to those produced within the region, except when these are not enough to fulfill the needs of the region.

16.2.4. Free trade zones

Free Trade Zones are areas where a special tax regime has been established in order to promote exports.

Among the tax benefits granted to these zones, there is a VAT exemption that applies both to the acquisitions of goods and services performed by the Free Trade residents. The exemption will apply only when goods or services acquired are used in order to perform industrial and commercial activities within the free trade zone.

Transactions not performed by free trade zones residents will be subject to VAT.

In order to access these benefits, the resident must observe the following conditions:

- Qualify as free trade zones' residents;

- Register at the Taxpayers Unique Registry; and
- Enter into a lease or any other type of agreement to use a physical space within the Free trade zones.

In addition, import of goods is VAT exempt; however, when the goods imported are bought outside the free trade zone, they will be subject to import VAT.

Sales of goods from any region of Peru to any free trade zone will be treated as an export.

16.2.5. VAT reimbursement for tourists

A new regime has been established in order to reimburse tourist on the VAT paid in Peru on the acquisition of certain goods.

A foreigner would be considered as a tourist as long as he stays in Peruvian territory for a period of not less than 2 calendar days and not more than 60 calendar days for each entry into the country.

The VAT refund applies only with respect to purchases made in establishments authorized by the Tax Administration for these purposes, provided that the sales price of each asset is not less than PEN 50 (USD 20, approximately). The minimum amount of VAT to be refunded is PEN 100 (USD 40, approximately).

The refund application must be submitted by the tourist upon leaving the country at the checkpoint enabled by the Tax Administration, which shall be resolved within sixty business days.

Peru
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Trinidad & Tobago

1. Scope

Effective on 1 January 1990, a Value Added Tax replaced the Purchase Tax and a wide range of other indirect taxes in Trinidad & Tobago. VAT is a destination-based tax on consumption. It applies to supplies of a wide range of goods and services within Trinidad & Tobago and on the importation of goods into Trinidad & Tobago. Exports from Trinidad & Tobago are subject to VAT but are taxed at a zero rate.

2. Taxable Persons

2.1. Definition

"Persons" liable for VAT are individuals, companies, unincorporated clubs or societies, joint ventures, trustees in trusts or estates, public or local authorities and partnerships that perform any business activities that fall within the scope of the VAT Act.

2.2. VAT Grouping

There are no VAT grouping provisions in Trinidad & Tobago.

3. Place of supply

3.1. Goods

Generally, the supply of goods is deemed to take place in Trinidad & Tobago when:

1. The supplier is a resident of Trinidad & Tobago; or
2. The supplier is not a resident of Trinidad & Tobago but the goods supplied are in Trinidad & Tobago at the time the supply takes place.

However, the supply will be regarded as taking place outside of Trinidad and Tobago (unless both parties agree otherwise) if:

• The supplier of the goods is not a resident of Trinidad & Tobago,

- is not, and is not otherwise required to be, VAT registered,
- The goods supplied are in Trinidad & Tobago at the time the supply takes place
- The recipient of the goods is registered for VAT and is acquiring those goods for the purpose of making a commercial supply.

3.2. Services

The supply of services is deemed to take place in Trinidad & Tobago when:

- The supplier is a resident of Trinidad & Tobago ; or
- The services are physically performed in Trinidad & Tobago by a person who is in Trinidad & Tobago at the time the services are performed.

However, the supply will be regarded as taking place outside of Trinidad and Tobago (unless both parties agree otherwise) if:

- The supplier of the services is not a resident in Trinidad & Tobago,
- is not, and is not otherwise required to be, VAT registered,
- the services are physically performed in Trinidad & Tobago by someone who is present in Trinidad & Tobago at the time the supply takes place
- The recipient of the services is registered for VAT and is acquiring those services for the purpose of making a commercial supply

In case of international travel or international tours the supply is deemed to take place in Trinidad & Tobago if:

- The travel package is paid for in Trinidad & Tobago;
- The journey originates in Trinidad & Tobago; or
- The ticket is issued in Trinidad & Tobago.

4. Chargeable event, chargeability of tax

4.1. Goods and services

As a general rule, the chargeable event with respect to goods occurs when the earliest of the following events takes place:

- An invoice is given to the recipient;
- Payment is made for the supply; or
- The goods are made available to the recipient.

In cases of a hire purchase agreement, lease with an option to purchase, or agreement where the recipient has an option to return the goods to the supplier, the supply is deemed to take place when the goods are made available to the recipient.

4.2. Services

Rules noted above for the supply of goods, also apply to the supply of services.

Additionally, when services are supplied on an ongoing basis, the supply of services is deemed to take place when an invoice is given to the recipient of the services. When payments for services are periodically made (regardless if the services are continuous or not) and no invoice has been issued by the supplier, the supply of services is deemed to take place at the time the periodic payments are due or are made, whichever is earlier.

4.3. Imports

In case of importation of goods, the chargeable event is the entry of the goods into Trinidad & Tobago territory, i.e. when is crosses the customs point.

5. Taxable Amount

5.1. General Rule

As a general rule, the taxable amount is the total consideration (monies) paid for the goods and services. If the consideration is not wholly paid in monies then the value of the supply will be the open market value of the goods or services supplied. With respect to the importation of goods, VAT is usually accounted for on the CIF (cost, insurance and freight) customs value together with any customs duty and other taxes imposed/due on importation.

Please note, however, that gifts below TT$ 20 (roughly USD $3) given by businesses to customers, trade samples, securities, intellectual

property and certain other supplies are not considered supplies of either goods or services and therefore, fall outside of the scope of VAT.

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency using the Central Bank of Trinidad and Tobago buying rate on the day on which the taxable event took place.

6. Rates

6.1. Standard Rate

The standard rate of VAT is 12.5% with effect from 1 February 2016.

6.2. Increased Rate

There are no increased rates.

6.3. Reduced Rate

There is a reduced rate of 0% for certain goods and services listed in the Legislation.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following are examples of services that are treated as exempt (please refer to Schedule 1 of the VAT Act for a full list of exempt services):

- Medical, dental, hospital and paramedical services other than veterinary services;
- Bus and taxi services other than bus services supplied by the Public Transport Service Corporation;
- Training and educational services provided by the University of the West Indies, the Hugh Wooding Law School, public and private schools registered under the Education Act that have obtained approval from the relevant Minister;
- Real estate brokerage;
- Rental of residential property;
- Accommodation in hotels, inns, guest houses for any period in excess of thirty days;
- Public postal services;
- Gambling and lotteries;
- Financial services as defined under the VAT Act; and
- Financial services provided by a licensed financial institution on which financial services tax is payable.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Zero-rated supplies are prescribed in Schedule 2 of the VAT Act. The following are examples of the items treated as zero-rated:

- Effective February 1, 2016, the list of zero-rated food items has been reduced to encompass mainly unprocessed foods and basic food items such as rice and flour. ;
- Prescription medication and certain other medical supplies;
- Water and sewerage services supplied by a public authority;
- The supply bus services provided by the Public Transport Services;
- The charter of ships or aircraft for use in international commercial services;
- Goods supplied to and within the Free Zone;
- Services supplied to a recipient not present in Trinidad and Tobago when the service is supplied and who pays in a foreign currency;
- Goods supplied to a destination outside Trinidad and Tobago;
- New and used (not older than four years from date of manufacture) private or commercial motor vehicles manufactured to use Compressed Natural Gas (CNG) , Electric Motor Vehicles and Hybrid Motor Vehicles.

- The following equipment to be used in the energy sector: Drilling rigs, drill ships, pipelay vessels and barges, anchor handling tugs in excess of 35 meters in length, geophysical survey vessels, heavy lift installation crane barges, oil skimming vessels, rig and platform supply vessels in excess of 60 meters in length, vessels used in bunkering in excess of 65,000 barrels (7,500 GTW (Gross Ton Weight), floating dry dock in excess of 1000 DWT for repair of anchor handling tugs and platform supply vessels.

8. Deductions

8.1. VAT recovery

VAT registered persons are allowed to offset against output VAT due in any VAT period input VAT incurred in that period to make commercial supplies.

The input VAT that may be offset is:

- All input VAT relating to commercial supplies if all the supplies made by the registered person in the VAT period are commercial supplies;
- When only a portion of the supplies produced are commercial supplies, generally the input tax allowable to be offset is the portion related to the production of the commercial supplies.

When a taxpayer does not make any taxable supply for a relevant period, the VAT authority may allow such input tax as it considers fair and reasonable. The VAT Act also allows a person intending to make taxable supplies to be registered for VAT and reclaim the input VAT incurred prior to start of his commercial activities (supply of goods or services).

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

The VAT Act requires any person who expects to make commercial supplies in Trinidad & Tobago in excess of the threshold of TT$500,000 (approximately US$74,850) with effect from 1 February 2016 in any 12-month period, to be registered for VAT. This registration threshold was increased from the previous amount of $360,000 (approximately US$57,000).

9.2. Registration for taxable person not established in the country

The VAT Act does not provide any registration mechanism for non-established businesses. However, a person who does not have a permanent establishment in Trinidad & Tobago and hence is not engaged in a trade or business in the country from a corporate tax standpoint may still be required to register for VAT if, in accordance with the provisions of the VAT Act, such person is making taxable supplies within Trinidad & Tobago.

9.3. Application Procedure

The procedure for VAT Registration in Trinidad & Tobago is as follows:

- Complete the relevant sections of the VAT registration forms (AOI-002 & DP – 003 Forms), which are to be signed and dated by a director or all of the directors as may be required;
- Submit the completed forms and the supporting documentation to the VAT authority, such as: incorporation documents, cash flow statement, evidence of commercial activity and a letter evidencing the assignment of a Board of Inland Revenue (BIR) number, if applicable;
- The VAT Act now requires the applicant to be registered within one working day after receipt of the application and other supporting documents required to the satisfaction of the tax authority and a VAT certificate is issued thereafter.

9.4. VAT Registration: Simplification

There are no simplification rules for VAT registration in Trinidad & Tobago.

9.5. Alternative procedures for-non established taxable persons

There are no alternative registration procedures for non-resident persons in Trinidad and Tobago.

9.6. Exemption from the requirement to register

A person who does not intend to make commercial supplies of TT$500,000 (or $360,000 before 1 February 2016) or more in a 12 month period is not required to be registered for VAT. However, a person, whether resident or non-resident, making commercial supplies within Trinidad & Tobago in excess of the TT$500,000 ($360,000) threshold is required to register for VAT, unless that persons qualifies for relief under Section 16(3) of the VAT Act which allows a person making a one off supply to a registered person for the purpose of that person making commercial supplies to opt not to register and account for VAT.

9.7. Joint Liability

Partners of a partnership, members of a joint venture and trustees of a trust are jointly liable for the VAT liabilities of the partnership, joint venture or trust, respectively.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier of goods or services is the person who is liable to charge and account for VAT on transactions. The importer is the person liable for VAT on importation, but that term is broadly defined and in essence includes anyone with an interest in the imported goods.

10.2. Registration

10.3. VAT Identification Number

Upon registration, a VAT Certificate is issued to the registered person. The VAT Certificate provides a six-digit VAT Identification Number for the registered person. Example: 012345

10.4. Tax authority

The Board of Inland Revenue, a Division of the Ministry of Finance of the Government of Trinidad & Tobago, is the Tax authority responsible for the administration of VAT. The Customs and Excise Division of the Ministry of Finance is the collector of VAT on importation.

10.5. Invoicing

10.5.1. Valid Invoice

A VAT invoice must be issued by a VAT supplier who makes a supply which exceeds $20. This does not apply to cinemas, fast food outlets and gas stations which need not issue an invoice unless requested to do so.

Although in certain circumstances a supplier may issue a simple invoice, a standard invoice, which is required for an input VAT claim, must contain:

- The words “Tax Invoice”;
- An identifying serial number and the date on which the invoice was issued;
- Supplier information: Complete name, address and VAT registration number;
- Customer information: Complete name and address of the recipient;
- A description of the goods and/or services supplied, including the quantity of goods or type of services supplied/provided;
- The amount paid/charged for the goods and/or services;
- The value of the goods/services;
- The rate and amount of VAT applicable; and
- The total value of the invoice including VAT.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Outsourcing and self-billing are not addressed in the Act.

10.5.3. Electronic Invoicing

There is no provision that expressly allows e-invoicing. However, in practice, electronic copies of invoices may be used in order to facilitate expeditious settlement of invoices. Original copies of the invoices are still generally required to be maintained for record keeping purposes and as documentary support required in the event of an audit conducted by the VAT authority.

10.6. Credit notes and debit notes

When a supply is cancelled the consideration for the supply is altered, or the goods or services are returned to the supplier, the recipient should be given a debit or credit note as the case requires. Such notes should be marked debit or credit, and should contain similar information to that required for a tax invoice.

10.7. Books and Accounting Registers/Records

A VAT registered person is required to maintain proper books and records in TT dollars, including tax invoices and a VAT account.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Unless otherwise notified, a person whether or not he continues to be registered, is required to retain books and records for a period of not less than six years after the end of the tax period to which they are related.

10.8.2. Format of Archiving

VAT taxpayers are required to keep proper books and records in English language, expressed in TT dollars and in such a form that would enable the tax authority to determine the VAT liability of the VAT registered persons. In practice, the archive is usually a physical storage of hard copies.

10.8.3. Place of Archiving

VAT taxpayers are required to keep proper books and records at their principal place of business in Trinidad & Tobago or at another location as may be approved by the tax authority.

10.9. Supporting documentation

VAT on supplies and expenses should be supported by proper documentation including proper tax invoices. Documentation required to support VAT on imports includes VAT assessment forms referred to as VAT 401 forms.

10.10. Tax period and VAT returns

The standard tax period is bi-monthly or every two months. VAT taxpayers are required to file a return and pay the VAT due for each two-month period. Returns must be filed by the 25th day of the month following the end of the VAT period to which they relate.

With respect to filing periods, there are three categories:

- Category A: tax periods ending the last day of January, March, May, July, September and November.
- Category B: tax periods ending the last day of February, April, June, August, October and December.
- Category C: other tax periods as assigned by the VAT authority (usually monthly).

10.11. Due Date for payment of VAT

VAT is due and payable within 25 days of the end of the VAT period to which it relates.

10.12. Refunds of VAT

VAT registered persons can obtain a refund where input VAT exceeds output VAT for the VAT period. The VAT authority seeks to issue refunds within six months of receipt of the return in which the refund is claimed. No mechanism exists for recovery of VAT incurred by an unregistered non-resident person.

10.13. Additional Reporting (statements)

There are no additional requirements per se. However, an application for cancellation of VAT registration must be filed by persons who cease trading or who are no longer producing commercial supplies above the TT$500,000 threshold (roughly USD 74,850), ($360,000 prior to 1 February, 2016).

11. Auditing

11.1. Auditing

The Tax Authority may conduct an audit examination on the books and records of the VAT registered person.

If the tax authority raises a VAT assessment with which the VAT registered person does not agree that person has a period of 15 days from the date of receipt of the assessment to file an objection. Such an objection will only be valid if the VAT registered person:

- Pays the assessed tax; or
- Submits security for the tax assessed with the approval of the Tax Authority; or
- Secures a waiver of the obligation to pay

Thereafter, the Tax Authority has 6 months to make a decision. Failure on the part of the Tax Authority to make such decision within the time stated will result in the objection being determined in favour of the taxpayer.

If the VAT registered person is aggrieved with the decision of the Tax Authority, that person may appeal to the Tax Appeal Board.

11.2. E-Auditing

There are no e-Auditing provisions within the Trinidad & Tobago tax legislation.

12. Penalties and risks for non-compliance

12.1. Penalties

Failure to file a VAT return by the due date attracts a penalty of TT$500 (US$75) which may be imposed on summary conviction or administratively by the tax authority or both.

Failure to remit the VAT payable under a return or as assessed by the due date will result in a penalty of 8% of the amount outstanding plus interest (see below).

12.2. Interest on late payments

Late payment of VAT also results in the imposition of interest at a rate of 2% per month or part thereof from the due date to the day of payment.

12.3. Joint Liability

Partners of a partnership, members of a joint venture and trustees of a trust are jointly liable for the VAT liabilities of the partnership, joint venture or trust respectively.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

Generally, the tax authority may initiate a VAT assessment within six years of the end of the tax period to which the assessment relates.

When a person neglects or refuses to pay VAT, the tax Authority may confiscate and sell the defaulting taxpayer's goods and other property.

Where the tax authority has enough reason to believe that a person liable for VAT may leave Trinidad & Tobago, the tax authority may serve a notice of assessment demanding the payment of any VAT due. The person is then required to pay immediately, or, if the tax authority approves, give security for the tax.

Additionally, the tax authorities may recover the tax through civil proceedings.

13.2. Recovery of VAT by the taxable person

A VAT registered person, who is liable to account for VAT on commercial supplies he/it makes, may recover that VAT from the persons to whom he/it makes those supplies. He/it may also recover as a refund from the Tax Authority any excess of input VAT incurred over output VAT due for the VAT period.

Certain specified unregistered persons may apply to the Tax Authority to recover VAT which they incur. These include diplomats and fishermen in respect of his fishing equipment.

14. Rulings and Decisions

14.1. Rulings

The tax authority is allowed to regulate its own procedure and in so doing, may make pronouncements on any areas of the law governing the administration of VAT. However, these rulings are not binding.

14.2. Decisions

Decisions by the VAT authorities are binding unless overruled by a Superior Court of Records.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

A person who without lawful reason fails to comply with the provisions of the VAT Act or who knowingly provides any material information that is false or misleading is liable under summary conviction for a fine of TT$ 50,000 (roughly USD 7,485) and three years imprisonment.

The tax authority may require any person, except a person engaged in a confidential professional relationship with the VAT registered person, to provide information in such a manner and detail as the tax authority may require with respect to the income or assessment of the taxpayer. The tax authority may also allow an authorized person to audit any record of monies, funds or other assets held by a VAT registered person on his own behalf or due to another person.

Additionally, for the purposes of an appeal against an assessment, the tax authority may by writing require Banks or their officers to provide relevant information or statements in writing or summon the officer to appear before them to give evidence with respect to the assessment.

16. Other Rules

16.1. VAT withholding regimes

An insurance company which is liable to make an indemnity payment to a VAT registered person is required to withhold VAT from that payment and remit that VAT to the Tax Authority on account of the recipient of the indemnity payment.

Trinidad & Tobago

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United States of America

1. Scope

1.1. Application of tax

Value Added Tax is not imposed in the United States. Sale and Use Taxes (SUT) are generally imposed instead at the retail level only. The first State Sales Tax was imposed in Mississippi in 1932.

This chapter intends only to highlight some common features of most U.S. State Sales and Use Tax regimes. Every State's Sales and Use Tax laws differ somewhat, and the laws are subject to amendment frequently. Please consult the appropriate State law for State-specific treatment.

Sales and Use Taxes are imposed in 45 States and the District of Columbia. Most of these States allow a so-called "local option," where jurisdictions such as cities and counties can impose an additional percentage onto the State-level Tax and keep the related revenues.

As such, there are thousands of Sales Tax jurisdictions throughout the country.

1.2. Sales Tax and Use Tax

A Sales Tax is generally a tax applied to the retail sale of tangible personal property and certain specifically enumerated services. Although the form of the tax may vary, it usually is imposed either directly upon the retail sale of the taxable item, the gross receipts from the sales of taxable items, or the person engaged in the business of making retail sales of taxable items.

Property or services subject to the tax vary from State to State. Generally, Sales Taxes are applicable to sales of tangible personal property (unless a specific exemption applies) and not services (unless a service is specifically enumerated as taxable by a State), but the current trend is for States to include services or to broaden

the range of services currently subject to tax. Some States impose a selective Sales Tax on certain services or transactions. For example, Illinois imposes a special Telecommunications Excise Tax, which operates similar to a Sales Tax. Other jurisdictions may tax specific transactions such as the Phoenix, Arizona Surtax on airport-based car rentals.

The different types of Sales Taxes can be broken down into four categories:

- Seller Privilege Tax - A Sales Tax imposed on the privilege of selling tangible personal property within the State or jurisdiction.
- Consumer Sales Tax/Use Tax - A tax on the consumption or purchase of tangible personal property or services in the State or jurisdiction. The tax generally is collected by the seller and remitted to the State; however, if the supplier fails to collect the tax, the user is obligated to remit the Use Tax directly to the tax authority (see more about Use Tax below). States can also hold the seller liable for Sales Taxes that it has failed to collect.
- Transaction Tax - A tax on a transaction (sale) involving tangible personal property and services in the State. The tax remains a debt of the seller until the seller remits the tax to the State.
- Gross Receipts Tax - A tax on the gross receipts of a business in the State. It is based on a general assumption that the seller has been granted the privilege to transact its business in the State.

The U.S. (federal) Constitution places limits on a States' authority to impose tax on non-residents. Thus, a State could not impose its Sales or Use Tax on tangible personal property delivered outside of the State for use or consumption outside of the State; however, if property is purchased out of State, but used in the State, the State may impose a Use Tax.

The Use Tax complements the Sales Tax; it typically is assessed on purchases made out of State and brought into the jurisdiction for use, storage, or consumption in the State. It is also levied when a supplier fails to collect a Consumer Sales Tax. Use Tax may be imposed on materials converted from resale inventory to internally-used property.

The primary purpose of the Use Tax is to protect in-State merchants who, absent the Use Tax, theoretically would be at a competitive disadvantage to out-of-State sellers making Sales to in-State customers. This is due to the inability of the taxing State to impose its Sales Tax on such out-of-State sales. Without the Use Tax, customers simply could purchase items out-of-State and transfer the items into their home State tax-free.

Taxable Transactions

Goods

Tangible Personal Property and certain Services

Sales Taxes are imposed on the retail sale of tangible personal property. In most States, and in contrast with the treatment of tangible personal property, services are generally exempt unless specifically enumerated as taxable. However, in some States, all transactions, including services, are presumed to be taxable unless otherwise provided.

In general, States define tangible personal property as property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. As opposed to real property, tangible personal property can be moved and if attached to real property, removed without damage to the underlying property.

At times, States include certain unique items in the definition of tangible personal property. By way of example, Kentucky defines tangible personal property as "property that may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses, regardless of the method of delivery, and includes natural, artificial and mixed gas, electricity, water, steam, and pre-written computer software."

While electricity and steam are certainly perceptible to the senses, not many States would consider them to be tangible, as the term is commonly understood.

Like Kentucky, most States include pre-written (i.e., canned) software programs in the definition of tangible personal property; however, the tax treatment of such programs may differ depending on

whether a purchaser receives the program in a tangible (e.g., disc) or intangible (e.g., electronic download, cloud services) medium.

States generally treat custom computer software programs as intangibles and exclude them from the definition of tangible personal property, regardless of how it was delivered to the consumer; however, a State may question how a seller categorizes its sales of canned versus custom programs (i.e., just how "custom" is a program) to qualify as exempt custom software. A growing number of States have added custom programs to the list of taxable property, or impose tax on services associated with customizing software. For example, Arkansas, Mississippi, and Tennessee tax custom software as tangible personal property, and Connecticut, the District of Columbia, Hawaii, Mississippi, New Mexico, and South Dakota consider custom software a taxable service. Additionally, Nebraska and West Virginia impose tax although custom software is not considered tangible personal property or a service.

Sales Tax Grouping

Historically, States have taken a rather limited approach to taxing services. In fact, most States tax relatively few services (although this is changing). Some of the common taxable services include:

- Data processing;
- Installation;
- Repairs to tangible personal property;
- Dry cleaning, laundry and alterations;
- Telephone and telegraph, cable television and utility services; and
- Amusement and recreation services.

In recent years, States have been expanding the scope of taxable transactions to include more services. Reasons for this policy change include:

- The nature of the U.S. economy has shifted from a manufacturing to a service orientation;
- The need for increased revenues has pushed the States to consider alternative tax sources; and
- The impact of the Internet on all commerce.

Please be aware that States have different rules governing the taxation of services.

Mixed or Bundled Transactions

Some transactions consist of sales of both tangible personal property and services. These sales are known as mixed or bundled transactions. State tax treatment of such transactions varies.

Most States will tax both service and property elements if a single lump-sum amount is stated on the invoice or sales contract. Generally, invoices must separately state taxable items from nontaxable items to avoid this situation. Some States, however, will allow vendors to avoid charging tax on the nontaxable components of the charge if they can be identified in the vendor's books and records.

Additionally, there are other instances when an apparent lump-sum charge is not an issue:

- When the value of the medium of transfer is inconsequential to the value of the service performed (for example, a computer disk containing custom software); and
- When the "true object" of the contract was to receive non-taxable professional services and not taxable personal property (for example, copies of tax returns).

The true object (i.e., the real object the purchaser seeks in making the purchase) is determined by the essentials of the transaction. The true object of the transaction is tangible personal property if the:

- Purchaser desires and uses the property;
- Property is not merely a disposable conduit for the service;
- Property is a finished product; or
- Property is not separable from the service.

The true object of the transaction is a service if the property is merely the medium of transmission for the service and can be discarded after the purchaser has obtained access to the service. Examples:

- For shipping, handling, gratuities, and similar charges, the entire sale price is taxable if the purchaser is required to pay for the service as part of the sale price of property, but if the purchaser is

not required to pay the service charge, the service is not taxable if separately stated;

- For repair and personal services, the service is not taxable if separately stated from the property, or if the service is not separately stated but the retail price of the property is de minimis to the total sales price. Some States have set percentages.

For all other transactions, the service is taxable if the true object of the transaction is actually the property purchased. However, in many instances, even if the true object of the transaction is the service purchased, the entire transaction is still taxable unless the tangible personal property is separately stated.

Note that not every State uses the true object test to determine the nature of transactions.

Imports

The U.S. Constitution prohibits States from levying taxes or duties on imports or exports without the consent of Congress. However, many States feel that this does not prevent them from taxing imports. For example, in California Sales Tax applies to sales of property imported into this State from another country when the sale occurs after the process of importation has ceased. Please refer to the relevant State laws on this subject (several States' laws are similar to California's).

2. Taxable Persons

2.1. Definition

Generally, the purchaser is liable for the tax and the seller becomes the agent of the State in collecting the tax. For instance, the New Jersey State Sales Tax is imposed on the consumer, but is collected by the seller or other person designated with the responsibility for collecting the tax. With respect to the Use Tax, primary reporting and payment responsibility is on the user of the property or service and is remitted for purchases for which no Sales Tax has been collected. However, even though the incidence of tax is on the purchaser, in many States, if the seller has nexus with a State (even if the seller does not realize that it has nexus), and fails to collect the tax, most States will hold the seller liable for the uncollected tax. In addition, the State may enter into an agreement (before or after the fact) with an out-of-State seller to collect the tax.

2.2. Sales Tax Grouping

The concept of similar tax grouping is not applicable for Sales and Use Tax.

3. Place of Supply

3.1. Goods

Generally, Sales Tax is a destination tax. As such, the State in which the property is physically transferred to the purchaser is the State that has the right to tax the sale. Use Tax applies to where the property is used or consumed if no Sales Tax was assessed. Some States use destination sourcing for sales coming into the State, but origin based sourcing for sales made in-State.

3.2. Services

For the taxation of services, the State in which the service is performed is generally the State that taxes the service; however, this is not a universal rule.

3.3. Supply of services by non-residents

A service that is taxable in a State remains taxable regardless of the domicile of the service provider. Note, however, that only providers with nexus in the State can be required to register and collect tax.

4. Chargeable event, chargeability of tax

4.1. Goods

Most often, the tax is assessed at the time of a retail sale, or more broadly, when the ultimate consumer of the goods makes a purchase. The tax falls upon a completed sale, which is determined by the jurisdiction where the purchaser takes title and/or possession of the property. In most States, possession need not be taken nor payment received before the Sales/Use Tax is assessed.

Use Tax is triggered when property purchased from an out-of-State supplier is brought or shipped by the seller or the purchaser into the State.

4.2. Services

The chargeable event for taxable services is when the service is performed.

4.3. Imports

This subject is not applicable.

5. Taxable Amount

5.1. General Rule

Sales or Use Tax is measured by the sales price paid or gross receipts received for the transfer of taxable property or services. States that impose the tax on the consumer but require the seller to collect and remit the tax usually refer to the measure of tax as the "sales price." States that impose the incidence of Sales Tax on the retailer or supplier generally impose the tax on the retailer's "gross receipts." In general, "sales price" means the value, in terms of money, whether or not received, at which the seller transfers property or services (including leases or rentals) to a purchaser with few deductions. As a measure of tax, "gross receipts" is generally broader and more inclusive than the term "sales price." Gross receipts may include charges for services and other costs associated with a particular sale that would not be included in the "sales price." Note, however, that many States that impose a traditional Sales Tax will treat the term "gross receipts" as being essentially synonymous with "sales price."

Sales price is generally computed without deduction for any of the following (this varies by State):

- The cost of sales, including direct labor and materials;
- Shipping or transportation, unless separately stated on the invoice;
- Services associated with the sale, unless separately stated;
- Interest paid and losses incurred in producing the good;
- Cash deposits received prior to completing the exchange; or
- Credits for trade-ins.
- Generally, Sales Taxes must be separately stated from the sales price on the transaction receipt.

Many States allow reductions from the retail sales price for the following items:

- Discounts taken, including early payment discounts, coupons, or "frequent purchaser" discount cards;
- The sales price of property sold but later returned and credited to the purchaser's account;
- Local Sales Tax;
- Separately stated charges for delivery, installation, etc.; or
- Fees imposed as penalties that were not a part of the original consideration, (e.g., a late fee for the tardy return of a rental video).

Several of the States that impose a Sales Tax recognize the role of the retailer in assisting the State with its tax collection function by allowing some form of collection discount, or supplier's allowance. By doing so, these States allow the retailer to retain a portion of the Sales and Use Tax collected as compensation for its role in timely collecting and remitting the tax due. The amount of this compensation varies greatly, however.

Over half of the States that provide a supplier's allowance impose some sort of cap on the amount of compensation, usually based on an absolute dollar amount.

Further, many States significantly lower the rate of compensation as the amount of taxable sales or tax collected rises. For example, New York allows a credit equal to 5% of the tax due, but caps the discount at USD 200 per quarterly period. As an example on the other end of the spectrum, Colorado allows an open-ended allowance (e.g., 2-3% of the tax due).

States might also allow credits for taxes paid in another State, purchases in designated enterprise zones, or for purchases on certain items (for example, Illinois manufacturer's purchase credit; Indiana for certain fuels).

Some States allow deductions for taxes that have been remitted on accounts that have been found to be worthless; these deductions are often limited to worthless accounts and are charged off as uncollectible for federal Income Tax purposes. Other States allow credits for worthless accounts.

5.2. Exchange Rule

There are no specific provisions on this topic.

5.3. Rounding Rules

Historically, States use a flat rate in determining Sales Taxes with many States allowing cities and municipalities to impose an additional flat rate amount. Some States allow local jurisdiction Taxes to be remitted on the State Sales Tax return while in other States, individual returns must be filed with each jurisdiction in addition to the State return.

6. Rates

6.1. Standard Rate

State Sales Tax rates range from 4 to 7.5%. Additional Local Taxes may apply, depending on the municipality.

6.2. Reduced Rate

States may impose reduced rates depending on type of transaction, purchaser, or seller.

6.3. Increased Rate

Generally, State Sales and Use Tax rates are uniform (though reduced rates may apply, see above); however, note that depending on the locality an additional Local Tax may apply.

7. Exemptions

Exemptions can be based on the nature of the product, the type of the transaction, the intended use of the product, or the nature of the entity buying or selling the product.

In addition, exemptions may apply to encourage economic development in a State or for other targeted reasons. Typically, States require purchasers to provide the supplier with an exemption certificate indicating that the purchaser of the property or service is exempt from tax. The requirements for what needs to be on an exemption certificate differ depending on the State. The Multistate Tax Commission (MTC) has created a Uniform Sales and Use Tax Certificate, for use in multijurisdictional transactions, which is accepted in several States.

The following provides a basic overview of some of the more common exemption provisions.

Product Exemptions

Product exemptions may be one of the most diverse and challenging exemptions for sellers. The most common product exemption is food, which can be either entirely exempt or taxed at a lower rate. In general, where an exemption applies to sales of food, such exemption does not include prepared foods (e.g., foods purchased for immediate consumption) or snack-type foods. Other commonly exempt products include prescription drugs and medical equipment.

Transaction Exemptions

The sale for resale exemption is the most common transactional exemption. As the name implies, the purchaser must purchase the item with the intent to resell the item purchased or for inclusion in another item for sale. Generally, items purchased for subsequent lease also qualify for the resale exemption. If the purchaser does not resell the product for which a resale exemption was claimed, the purchaser must self-assess and remit Use Tax on the purchase price of the products used.

Most States have an occasional sale exemption, which is also known as a casual, isolated, or bulk sale exemption. This exemption allows for nonrecurring or unusual sales transactions (e.g., the one-time sale of the operating assets of an entire division), to be sold exempt from tax. Taxpayers must exercise caution in applying this exemption because some States narrowly define the types of sales that qualify.

In addition, a number of States impose stringent reporting obligations on the purchaser as a way to ensure that the seller pays outstanding obligations to the State before ceasing operations and selling its business assets.

Intended Use Exemptions

Most States provide an exemption for the purchase of items used directly in manufacturing, processing, assembling, or refining and for materials that become a component part of the item that results from such activities. State laws differ as to the types of purchases that qualify for exemption, which may include machinery, equipment, utilities, fuel, replacement parts, repairs, and inputs, including raw materials, chemicals, and other components. In addition, State laws differ in how narrowly they define "used directly" or "component part." States also may limit the exemption to purchases for use in new or expanding facilities, or impose a preferential tax rate on qualifying purchases.

Specific rules may apply to certain industries, such as construction or government contractors, who are often considered "consumers" of the tangible personal property and services they purchase for use in performing a contract. Therefore, their purchases of construction materials generally are subject to Sales or Use Tax, unless another exemption applies.

A number of States provide an exemption for the purchase of equipment used to provide taxable services, such as telecommunications or broadcasting services. In general, the intended use exemption attempts to ensure that Sales and Use Tax is imposed only on the final consumer, and that all the goods and services used to produce that item sold to the final consumer are exempt from tax.

The purchase of tangible personal property used in research and development activities is exempt in a number of States. In general, the exemption is limited to tangible personal property used or consumed in experimental or laboratory type research and development and does not include ordinary testing or inspection of materials.

Exempt Entities

All States exempt direct purchases by the federal government. In addition, most States exempt purchases by State and local governments, as well as religious, charitable, or educational entities. One note of caution – just because an organization qualifies as an exempt organization for Federal and State Income Tax purposes, does not mean it automatically qualifies for a Sales Tax exemption on its purchases. States may require the organization to apply for exemption status at the state level to qualify for exemption. Often, to the extent an exemption applies, it may be limited to purchases made solely for the purpose of funding exempt activities.

Miscellaneous Exemptions

Newspapers and periodicals are exempt in some States; however, these exemptions are often very narrow, with specific definitional, circulation, and news requirements. For example, "Penny savers" or other advertising flyers that do not contain a certain percentage of "news" often are subject to tax. Another common exemption applies to purchases of property for use in specific geographic areas within a State, such as a designated enterprise zone. This type of partial or complete exemption is designed to offer tax incentives to businesses to locate or expand operations in specific areas, thereby creating an influx of jobs and stimulating capital investment.

Some States have brief periods of the year known as "Sales Tax holidays" where certain types of property (e.g., school supplies or hurricane supplies) up to a limited amount are exempt from tax to help residents prepare for important events.

7.1. Exemption with no right to deduct input credits

This subject is not applicable.

7.2. Exemption with right to deduct input credits

Since Sales and Use Taxes do not work on a credit-base system, there is no right to deduct Sales and Use Tax paid on purchases related to taxable sales.

8. Deductions

8.1. Sales and Use Tax Recovery

This subject is not applicable.

9. Person liable to pay Sales and Use Tax - out of State taxable persons

9.1. Sales and Use Tax Liabilities

Generally, all persons with nexus who make taxable sales in a State must register as a supplier, regardless of their domicile.

There are generally no Sales and Use Tax registration thresholds.

9.2. Registration for taxable person not established in the country

Some States require foreign entities without permanent establishment for Federal Income Tax purposes to register for Sales and use Taxes if nexus thresholds are met.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. SUT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. SUT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for SUT

Under the U.S. Constitution, only sellers with nexus in a State may be required to collect State Taxes. Sellers should note that not all State nexus standards are the same; though such standards must be Constitutional. It is important to note that several States define an in-State retailer or supplier as one who has agents or affiliates acting in a State on its behalf. In addition, having an in-State website with links to a seller's website can create nexus for the out of State seller in many States.

Sellers should review the laws in all States to ascertain whether registration is required.

For example, Alabama requires a collection responsibility for sellers that employ or contract with any representative, agent, salesman, canvasser, solicitor or installer operating in Alabama under its authority or its subsidiary to sell, deliver or take orders for the sale of taxable tangible personal property or services, or otherwise solicits and receive purchases or orders by any agent or salesman. Other States have different standards regarding registration.

Additionally, due to budget shortages and the lack of federal legislation, a few States are attempting to expand the Sales and Use Tax collection responsibility to include remote sellers meeting certain economic threshold amounts of sales in-State, among other proposed activities. These aggressive state positions are becoming popular and evolving constantly, thus taxpayers need to stay aware of the latest developments.

10.2. Registration

Generally, persons required to collect the tax in a State must register with that individual State. Registration requirements for the States differ. For example, under Georgia law, "[e]very person desiring to engage in or conduct business as a seller or dealer in the State must file an application for a certificate of registration with the Commissioner for each place of business."

Each Member State of the Streamlined Sales Tax Governing Board (presently 23 States) participates in an online Sales and Use Tax registration system in cooperation with the other Member States. Under this system: a seller registering under the Agreement is registered in each of the Member States; the Member States agree not to require the payment of any registration fees or other charges for a seller to register in a State in which the seller has no legal requirement to register; a written signature from the seller is not required; an agent may register a seller under uniform procedures adopted by the Member States; a seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper States any taxes collected.

10.3. Direct Payments

Although, generally, the seller, retailer, or supplier, collects the tax from the purchaser and remits it to the State Tax Authority, there are times that purchasers may self-assess Use Tax and remit the tax directly to the State. This relieves the retailer, seller, or supplier from its collection responsibility. To do this, the purchaser has to present the seller with a direct payment permit. Requirements regarding who can use a direct payment permit vary among the States.

For instance, in New York, the following conditions must exist in order for a purchaser to be permitted to use a direct payment permit:

- It must be impossible to determine the manner in which the property or services will be used at the time tangible personal property or services are acquired by a purchaser;
- The purchaser must be a registered supplier; and
- The purchaser must have timely filed all required returns and timely paid all taxes due for the four quarterly periods immediately prior to the submission of an application for a direct payment permit.

10.4. Tax authority

Sales and Use Taxes are usually administered by the State's Tax Authority or Department. Most State Tax Authorities are called the Department of Revenue or Department of Taxation. In California, the Sales Tax is administered by the State Board of Equalization.

10.5. Invoicing

10.5.1. Valid Invoice

A valid invoice generally sets out all the components of a sale, including price, quantity, separate charges (such as delivery), and tax as it applies to each component of the transaction. Nontaxable components of sales are also usually separately stated on an invoice.

State requirements for a valid invoice vary; however, an invoice is not a prerequisite for Sales and use Tax collection.

Some States require certain language to be included on invoices in States in which the retailer does not have a collection responsibility. The language generally details the purchaser's Use Tax liabilities since the retailer is not charging Sales Tax on the invoice.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

In addition to the use of third-party automated systems used by a taxpayer, some States allow the use of third party service providers to entirely outsource the compliance function. This permission is limited to a small number of streamlined Sales Tax participants.

10.5.3. Electronic Invoicing

Participants in a transaction may elect to use electronic, rather than paper invoices; however, this matter is rarely presented in State Law.

10.6. Credit notes and debit notes

There are no specific provisions on this topic.

10.7. Books and Accounting Registers/Records

Each State has different requirements on maintaining records. Taxpayers need to research a particular State law for the exact requirements. For example:

In California, the State Board of Equalization requires taxpayers to keep records; the books and papers should be available for inspection at any time by the board or its duly authorized agents.

The records must show: 1) normal books of account ordinarily maintained by the average prudent business person engaged in the activity; 2) bills, receipts, invoices, cash register tapes, or other

documents of original entry supporting the entries in the books of account; and 3) schedules or working papers used in connection with the preparation of tax returns. Florida requires taxpayers to keep a complete record of all transactions, together with invoices, bills of lading, gross receipts, from sales, resale certificates, consumer exemption certificates, and other pertinent records and papers reasonably needed for the administration of the tax, and such books of account as are necessary to determine the amount of tax due.

New York requires every person that must collect tax to keep records of every sale, of all amounts paid, and the tax due on the sale. The records must include a true copy of each sales slip, invoice, receipt, statement or memorandum which requires that the tax be separately stated.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The record retention period varies among the States. Please consult State Law for State specific requirements.

Florida and New York have a three year record retention requirement. California has a four year record retention requirement.

10.8.2. Format of Archiving

Archiving requirements vary among the States. Please consult State Law for State specific requirements. Many States allow for files to be maintained electronically.

10.8.3. Place of Archiving

See above.

10.9. Supporting documentation

The requirements of what documents need to be maintained vary by States.

10.10. Tax period and returns

These requirements vary among the States. Please consult with State specific requirements.

Most States require that taxes be remitted to the State monthly, quarterly, semiannually, or annually, based on the seller's receipts from the tax period. Many States require that returns be filed, and payments be remitted, electronically. Again, the requirements among the States vary.

For example, in Florida, suppliers must file monthly returns by the 20th of each month, reporting sales for the prior month. Nevertheless, the Department may require:

- A quarterly return and monthly payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded USD 1,000 but did not exceed USD 12,000;
- A quarterly return when the tax remitted by the dealer for the preceding four calendar quarter exceeded USD 500 but did not exceed USD 1,000;
- A semiannual return and payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded USD 100 but did not exceed USD 500; and
- An annual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed USD 100.

10.11. Due Date for payment of SUT

These requirements vary among the States. Please consult State specific requirements.

Payments are generally due when returns are due.

10.12. Refunds of SUT

Please note that SUT is not a credit-based tax; however, States will generally provide a refund or credit of Sales and Use Taxes remitted to the State if the State was not entitled to the funds (e.g., overpayment). State procedural requirements vary; some States require customers to seek refunds from the charging vendors, while other States allow customers to pursue refunds directly with the State. Please refer to the particular State Law for the State specific requirements.

11. Auditing

11.1. Auditing

The respective State Tax Departments conduct audits on a varying basis.

12. Penalties and risks for non-compliance

12.1. Penalties

Penalties are imposed by States for failing to timely file returns or remit payments, for underpaying the amount of tax due, and for other violations of the tax law. The penalties vary depending on the State. The amount usually involves a certain percentage of the deficiency or of the amount that should have been shown on a return that was not filed.

Other penalties are imposed for more serious violations, such as fraud. Many State Tax Departments are empowered to waive penalties upon a showing of good cause. Please refer to the particular State Law for an explanation of State-specific penalties.

12.2. Interest on late payments

In addition to penalties, States also impose interest on late payments. The interest rate may be set by law or may be subject to periodic adjustment on an annual or more periodic basis. Generally, State Tax Departments cannot waive interest.

13. Statute of Limitations

13.1. Recovery of SUT by the tax authority

The periods for which State Tax Departments can issue assessments vary by State. The average period is between three and four years from the tax return due date.

13.2. Recovery of SUT by the taxable person

Refund periods vary by State. Refer to State Law for State specific Sales and Use Tax refund requirements. By way of example, refund claims in Pennsylvania must be filed within three years of the payment. In New York, refund claims must generally be filed within the later of: three years of the filing of the return or two years from when the tax was paid.

14. Rulings and Decisions

14.1. Rulings

The ruling procedures vary by State. Many States offer taxpayers the opportunity to request a private letter ruling. These rulings usually only bind the requesting taxpayer, but often serve as a general statement of Department policy. Some States offer more general rulings or statements of Department policy. Many of these rulings are posted on the Internet.

14.2. Decisions

The appeal process varies among the States. Generally, a determination is first made by the State Tax Department. Then, the first forum is an often an administrative panel, which may or may not be a division of the State Tax Department.

Following these appeals, tax matters transfer to the State Court systems. Some States have independent Tax Courts, who hear only tax related issues. From there, appeals will go the State Appeals Court and then, if unresolved, to the State's Highest Court. The actual names of the Courts vary by State.

15. Abuse of Law

15.1. Anti-avoidance and Fraud measures

Nearly every State imposes criminal penalties for failing to file or pay or for filing a false and fraudulent return. These crimes may be characterized as misdemeanors or felonies, carry fines, and possibly subject responsible parties to imprisonment. In addition, many States have specific regimes designed to target abusive tax avoidance transactions.

United States of America

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Uruguay

1. Scope

Uruguayan VAT is an indirect, multiphase non-cumulative tax, which works on a Credit – Debit system, levied on:

a. the provision of services;

b. the circulation of goods within the limits of Uruguayan territory;

c. the definitive introduction of goods into the country (imports);

d. Value added in construction work, performed on real estate property.

2. Taxable Persons

2.1. Definition

VAT taxpayers are:

- Those who engage in taxable activities for Corporate Income Tax (CIT) during the fiscal year, being CIT taxpayers because of fulfilling certain conditions (obtain business profits), except for those that took the option of paying the Tax on the Sale of Agricultural Goods (IMEBA).
- Those who engage in taxable activities for Personal Income Tax but took the option to pay CIT or are therein included, because of meeting certain conditions.
- Those who receive compensation for personal services rendered by independent personnel, in accordance with Personal Income Tax provisions.
- Those who engage in taxable activities and are subject to the Non-Residents Income Tax, unless such activities are related to obtain capital gains and equity increases.
- Governmental entities and self-governing bodies that are part of the industrial and commercial domain of the State.

- Those that introduce taxable goods into the country and are not included in the previous bullets.
- Departmental governments, for activities performed that are in competition with private activity, except for goods traded and services provided directly to consumers, whose purpose is to reduce the prices of essential products and services. The Executive Branch shall determine throughout regulations, the activities and the date as of which the tax shall be levied.
- Associations and foundations, for certain taxable activities.
- Savings and loan cooperatives.
- The Notary Social Security Fund, the Retirement and Pension Fund for University Professionals and the Bank Retirement and Pension Fund.
- Closed-end credit investment funds.
- Trusts, with the exception of guarantee trusts.
- Those who perform the activity of added value in construction work on real state property.

2.2. VAT Grouping

There is no VAT grouping, nor consolidation regime.

3. Place of supply

3.1. Goods

VAT regulations specifically state that this tax is levied on the delivery of goods in Uruguayan customs territory (the port/airport areas and the Free Trade Zones are out of scope of VAT for goods purposes) and on the definitive introduction of goods to the referred territory, regardless of the place where the respective contract has been executed and the domicile, residence or nationality of the parties involved in the transactions. Exports are zero-rated whereby the related tax credit is reimbursed.

3.2. Services

VAT is levied on services rendered in Uruguayan territory, regardless of where the respective contract has been executed and regardless of the domicile, residence or nationality of the parties intervening in the transactions.

The provision of services through the internet, technological platforms, computer applications, or similar, when they are destined, consumed or used economically in the national territory, will be considered 100% rendered in Uruguay for VAT purposes (please note that regulatory decree is still pending to be issued).

4. Chargeable event

The taxable event shall occur as follows:

4.1. Goods

The taxable event is considered configured when the contract or its equivalent act is performed through the delivery or the introduction of the goods.

The supply of goods is presumed effective on the date of the respective invoice, with independence of the power of the Administration to establish it, when there is failure, anticipation or delay in billing.

4.2. Services

The taxable event is considered configured when the contract or its equivalent act is performed through the rendering of the services. It is presumed effectively rendered on the date of the respective invoice, with independence of the power of the Administration to establish it, when there is failure, anticipation or delay in billing.

In the case of the provision of ongoing services, such as insurance and reinsurance, the taxable event is configured monthly.

4.3. Imports

In the importation of goods, the taxable event shall occur at the time the goods enter a territory of the country definitively.

5. Taxable amount

5.1. General rule

The tax basis is constituted by the compensation received in return of the delivery of the goods, the services or the value of the imported goods. In all cases, the amount of other charges integrating the price or compensation will be included in the taxable basis.

5.2. Exchange Rate Rules

If the operation is convened in foreign currency, this amount must be converted to local currency (Uruguayan Peso) at the interbank buyer exchange rate quoted at the end of the day prior to the operation.

5.3. Rounding Rules

There are no rounding provisions for calculating or reporting taxes.

6. Rates

6.1. Standard Rate

The standard VAT rate is 22%. Additionally, an advance VAT payment of 10% must be paid on imports.

6.2. Increased Rate

There are no increased rates in Uruguay.

6.3. Reduced Rate

A reduced rate of 10% applies on certain transactions specifically mentioned in the regulations. Below we mention the most relevant items (goods and services):

- Regular white bread and biscuits; fresh, frozen or chilled fish, meat and meat derived products; edible oils; rice; cereal flour and milling byproducts; pastas and noodles; salt for household use; sugar; "yerba"; coffee; tea; common soap; edible fats; milk transportation.
- Medicines and substances for their preparation.
- Accommodation services provided by hotels.
- Independent professional services related to the human health.
- Gasoil.
- Inland passenger transportation.
- Fruit, flowers and vegetables in their natural state (provided certain conditions are met).

A 4% VAT reduction applies to final consumer transactions made with debit cards or electronic money instruments.

Additionally, an advance VAT payment of 3% must be paid on imports.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

We hereby include the most relevant situations of exempt sales and imports of goods, as well as services' provision.

Sales of:

- Foreign currency, precious metals (either coins or ingots), Government and private securities and certificates, and similar instruments.
- Real property with the exception of the first sale.
- Agricultural machinery and accessories.
- Fuels derived from petroleum (except fuel oil and diesel), with fuel being understood to be goods naturally intended for combustion.
- Pasteurized and ultra-pasteurized, fortified, skim and powdered milk, except flavored milk and long shelf-life tetra Pak milk.
- Goods to be used in agricultural production and raw materials used for this purpose.
- Newspapers, magazines, books and brochures of any types (with the exception of pornography). Educational materials are also exempt.
- Solar panels for the generation of photovoltaic energy

Provision of services:

- Interest on Government and private securities and bank deposits.
- Compensation received by stamped paper, stamp tax agents and brokers of the National Lottery and Lotto Office.
- Real estate leases.
- Insurance and reinsurance covering the risks of fire and meteorological conditions to the following: agricultural, horticultural, fruit and forest products located n Uruguay; structures that protect such crops; all types of animal production in Uruguay.
- Banking operations performed by the banks, financial institutions and savings and loan cooperatives.
- Interest on loans granted by Mortgage State Bank for housing, and interest on loans granted by other institutions for the same purpose (in domestic currency, indexed units (UI) or adjustable units).

Importations of:

- Crude oil.
- Goods whose domestic sale is exempt.
- Public transportation vehicles used on streets, roads or national highways, for the provision of regular departmental, national or international services.

7.2. Exemption with right to deduct input VAT (zero-rated supplies)

Exports of goods and services are zero-rated.

Input VAT related to these transactions can be used as a credit against output VAT, to pay other taxes collected by the Tax Administration as well as to pay social security contributions. Excess VAT generated by exporters, can also be endorsed to third parties for the payment of their taxes.

Exports of services are only those exhaustively listed in VAT regulations. We hereby detail the most relevant cases:

- Freight for transporting goods outside the Republic, including services developed abroad, and freight of goods to customs area, port customs facilities, and Free Zones.
- The services provided by building or repairing naval and air activity companies corresponding to their construction, repair, conservation and conversion of ships scroll up to one ton, regardless of their nationality, including also the materials used.
- Cleaning activities, maintenance and provisioning of ships.
- Insurance and reinsurance covering risks on i) ships or aircraft; ii) goods transported from abroad to custom national territory or customs facilities or free zones; iii) goods transported from national customs territory or customs facilities or Free Zones to foreign territory; iv) goods transported within foreign territories (regardless of passing through Uruguay).
- Services rendered exclusively within customs facilities and in Free Zones areas. It is required for the aforementioned services to be considered exports that they are necessarily be provided inside these areas.
- Leases of conference rooms, if certain conditions are met.
- The transmission to foreign countries of television material produced in Uruguay, under certain conditions.
- Advisory services related to activities developed, goods located or rights economically used outside the Republic, provided to foreign subjects.
- The services provided for the design, development or implementation of specific software, provided to foreign recipients.
- The license for the use of software for a period or in perpetuity provided to foreign recipients.
- The services rendered by International Call Centers, where the main activity is destined abroad and for the referred part.
- Accommodation services provided by hotels to non-Residents in both, high and low season.
- Quality control, consulting services and activities provided by commission agents, exclusively to outsiders in relation to exports of goods and services from Uruguay.
- Advertising services provided by agencies to customers outside Uruguay for material to be used exclusively abroad.

VAT on the circulation of agricultural products in their natural state, with the exception of fruits, flowers and vegetables, will not be included in the invoice or equivalent document, remaining "in suspense" for tax purposes until these goods are processed or their nature is altered. VAT included in the purchase of services, supplies and fixed assets by taxpayers mentioned in the preceding statement (and intended to integrate the cost of goods and services produced by them), shall be deducted as provided to exporters.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable to this tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions, and provided some additional formal requirements are met.

VAT on imports can be offset against output VAT.

In case input VAT relates to both taxable and to exempt transactions, such VAT will be recoverable using a pro-rata calculation criterion.

In case of exports, VAT on goods and services that directly or indirectly integrate the cost of the exported products/services can be deducted. If this difference derives in a credit in favor of the exporter, it can be used to pay other taxes collected by the Tax Administration as well as its own social security contributions. It can also be endorsed to third parties for the payment of their taxes.

9. Person liable to VAT - non-established taxable persons

9.1. VAT Liabilities

Uruguayan VAT legislation appoints as withholding agents those who pay (or credit) services subject to VAT to non-residents that do not have a permanent establishment in Uruguay.

9.2. Registration for taxable persons not established in the country

Uruguayan legislation does not contain any specific registration mechanism for non-established businesses for VAT purposes.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance

10.1. Persons Liable to account for VAT

Local suppliers of goods and services as well as importers of goods are the ones responsible for charging and accounting for VAT. When the supplier of services is a non-resident, local withholding agents are the ones that have to account for withheld VAT, making the corresponding payments.

10.2. Registration

There is no specific registration for VAT purposes. There is a single registration procedure for all tax purposes, by which taxpayers receive a Tax Identification Number (Registro Único Tributario - RUT).

10.3. VAT Identification Number

The registry will assign a Tax Identification Number (RUT). It consists of 12 digits.

10.4. Tax authority

The Uruguayan Tax Office (DGI, "Dirección General Impositiva") is responsible for the administration of VAT.

10.5. Invoicing

10.5.1. Valid Invoice

In order to be considered valid, invoices must include the following requirements:

- Entity information: name, address, tax registration number (RUT).
- Expiration date of the forms (this information must be pre-printed on the invoice form).
- Date of issuance.
- Purchaser's business information: name, address and tax registration number (RUT).
- Description of goods sold or services rendered.
- Quantities and unit price, tax amounts, tax rates, and total amount invoiced.

This list is not exhaustive. In addition, the legislation provides the details of the format, dimension, expiration date and other mandatory requirements that invoices and receipts must meet for tax purposes.

Taxpayers have to discriminate on the invoice issued, the corresponding tax when engaging in operations with other taxpayers, indicating separately exempt or non-taxable operations, as well as the rate applicable, the resulting tax and the total amount of the transaction.

In order to deduct input VAT, tax discrimination in the documentation as well as the purchaser identification with name and taxpayer registration number is required.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Valid invoices are those issued by VAT contributors. Invoice forms must follow specific regulations. There is no self-billing mechanism.

10.5.3. Electronic Invoicing

At the first stage, the Electronic Invoicing regime was mandatory only for those taxpayers appointed/designated by the Tax Office. In 2015 the Uruguayan Tax Office set a schedule to incorporate the taxpayers into the regime based on their sales amount, with the purposes that by 2019 all medium and big sized entities will be e-invoicing.

Transactions between taxpayers are documented in electronic tax invoices or electronic invoices called "e-bills" and their corresponding credit and debit notes. Other transactions with local parties are documented in electronic tax receipts, called "e-tickets", and the corresponding credit and debit notes.

10.6. Credit notes and debit notes

Taxpayers must document all transactions related to VAT. These transactions must be backed up in invoices, receipts, debit notes, credit notes or equivalent proof. Credit and debit notes must be issued following the same requirements applicable to invoices.

10.7. Books and Accounting Registers/Records

Taxpayers must keep in their accounting records specially identified accounts for VAT purposes. An account shall include VAT due on each sale of goods or provision of services (credit VAT); while other in which the amount of taxes arising from purchase documents, imports and services received shall be debited.

Taxpayers must discriminate in their accounting records the transactions subject to: standard rate (22%), reduced rate (10%), and exempt/export operations.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

The retention period is defined by the statute of limitations (five or ten years).

10.8.2. Format of Archiving

Accounting records and supporting documents must be archived physically and in order, for the statute of limitation period.

10.8.3. Place of Archiving

All supporting documents and invoices must be archived in the registered address ("domicilio constituído") of the taxpayer.

10.9. Supporting documentation

VAT taxpayers are obliged to keep all the necessary information to support the nature and truthfulness of their transactions for the statute of limitations period.

10.10. Tax period and VAT returns

The tax period is of one year (the fiscal year in case of corporate taxpayers). The frequency of filing depends mostly on the size of the company and to the sector of the economy to which it belongs. Taxpayers belonging to the Large Taxpayers Group and those included in sector CEDE (normally, medium size companies) file tax returns monthly. The rest of taxpayers have to file tax returns annually.

10.11. Due Date for payment of VAT

Due date for VAT payment is every month depending on a pre-established schedule.

10.12. Refunds of VAT

When input VAT exceeds output VAT, the excess is carried forward to next month. If necessary, it is carried forward to next fiscal year.

Exports are zero-rated. Input VAT related to these transactions can be used as a credit against output VAT, to pay other taxes collected by the Tax Administration, as well as to pay own social security contributions. Excess input VAT derived from exporters can also be endorsed to third parties for the payment of their taxes.

10.13. Additional Reporting (statements)

Large Taxpayers (those entities defined/identified by the Tax Office as "CEDE" and/or "Grandes Contribuyentes") must fill and file an additional informative form, which discloses details of the counterparts of at least 90% of their input and output VAT.

11. Auditing

11.1. Auditing

The Tax Administration is authorized (within the statute of limitations period) to perform tax audits to verify tax compliance, which includes reviewing the taxpayer's account records and tax returns. If unpaid taxes are found or formalities are not duly fulfilled, then penalties apply and, depending of the failure, late filing fines are also applicable.

Assessments can be done under a real or estimated basis, depending of the specific case and of the information that the taxpayers have on their transactions.

11.2. E-Auditing

There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties

Tax penalties may derive from failure to pay, arrears, contravention, fraud and public instigation to not pay taxes.

The following are some of the penalties related to VAT:

• Failing to file the tax return: approx. 15 USD

• Late payment will be fined with a penalty of:

a. 5% of the tax payable, if the tax is paid in the following five working days from the due date.

b. 10% of the tax payable. If the tax is paid between the following five working days from the due date and up to ninety calendar days.

c. 20% of the tax payable, if the tax is paid after ninety calendar days from the due date.

12.2. Interest on late payments.

The monthly surcharge is calculated on a daily basis. The rate is set by the Executive Power and shall not exceed 10% (ten percent) of the highest rates set by the Central Bank of Uruguay.

12.3. Joint Liability

The owners of the exploitation of theaters, television channels, waves broadcasting and sports events shall be jointly liable for payment of VAT corresponding to the taxable person acting in the described broadcasting and sporting events. The jointly liable taxpayer may withhold the corresponding tax.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority

The general statute of limitations is 5 years, and this period is extended to 10 years in case of: i) tax fraud, ii) not complying with Tax Office registration, iii) lacking of communication of the taxable event, or iv) not submitting the tax return (among other cases).

13.2. Recovery of VAT by the taxable person

Tax credits and claims against the Tax Administration expire after four years from the date in which they were receivable.

14. Rulings and Decisions

The Tax Code establishes that a taxpayer may request the opinion of the Tax Authority. Anyone who has a personal and direct interest may consult on the implementation of the ruling to a genuine and present situation. To this end, it shall state clearly and precisely all the elements of the situation that motivates the consultation and may also express their founded opinion.

Regarding audits, once a final assessment is issued by Tax Office auditors derived from a tax audit process, the taxpayer has the right to appeal the assessment to the Tax Office (so-called administrative appeal for revocation) and, simultaneously, to the Executive Branch (so-called administrative hierarchical appeal). This administrative appeal process must be considered the first level appeal process. Once the administrative process ends, taxpayer has the right to appeal to a Court of Justice (Tribunal de lo Contencioso Administrativo). This is the judicial appeal process (Acción de Nulidad).

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

There are no specific anti-avoidance or fraud measures for VAT. For tax purposes, fraud is any act done with the intention of a taxpayer of obtaining for himself or for a third party, an improper enrichment at the expense of the rights of the State to the collection of taxes.

16. Other Rules

16.1. VAT withholding regimes

Uruguayan VAT legislation appoints/designates as withholding agents those who pay (or credit) services subject to VAT to non-residents; to the extent they do not have a permanent establishment in Uruguay. Other withholding regimes are defined including cleaning and security services, contractors of public works, and others.

Uruguay
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Venezuela

1. Scope

The Value Added Tax (VAT) is a federal tax administered by the National Integrated Customs and Tax Administration Service (SENIAT as per its Spanish acronym). It is an indirect and multiphase tax that is levied on the value added generated in each stage of the production and trade process, from the import stage to the supply to final consumers, who bear the ultimate responsibility of paying it.

Companies that perform tax-exempt operations are treated as the final consumers and therefore, have to bear the payment of VAT on their purchases, which generally cannot be recovered. However, the VAT is considered a cost that may be deducted from gross income for the purposes of calculating Income Tax.

The following transactions are subject to VAT:

- The supply and importation of tangible movable property;
- The withdrawal or disposal of movable property made by taxpayers and the consumption of services inherent to the company's line of business or activity;
- The provision of independent services executed or used in the country, including those derived from abroad;
- The exportation of tangible movable property and services.

For purposes of the tax, services are defined as any independent activity where the rendering of obligations constitutes the core of such activity. They also comprise movable or real state property, work contracts; the provision of water, electricity, telephone and health; the leasing of movable property, and the leasing of real estate property for purposes other than residential purposes, as well as the leasing or assignments related to the use of intangible property such as trademarks, patents, copyrights, art or intellectual works, scientific or technical projects, studies, instructions, software and other properties

contained in and regulated by the existing legislation on industrial, commercial and intellectual property, or on technological transfer.

The supply of services are deemed exported, in the terms specified in the Law, when the beneficiaries or recipients are not domiciled in the country, provided that said services are exclusively used abroad.

Importation of goods, as well as supplies of goods and provision of services made within the Free Ports and Duty Free Zones are VAT exempt without credit. The list of Venezuelan Free Ports and Duty Free Zones are as follows:

- The Free Port of Nueva Esparta State;
- The Free Zone for the Development of Tourist Investment at the Paraguaná Península in the Falcon State; the Cultural, Scientific and Technological Free Zone of the Mérida State;
- The Free Port of Santa Elena de Uairén; and
- The Atuja Industrial, Commercial and Service Duty Free Zone (ZOFRAT).

2. Taxable Persons

2.1. Definition

Taxable persons generally include any individuals or companies, communities, societies, consortiums and any other legal, economic, public or private entities that regularly carry out taxable events under the VAT Law.

Commissioners and agents who act on behalf of a principal are liable to account for VAT on the value of any commission earned from their service.

In some situations the person liable to account for VAT is not the supplier, such as:

- Persons acquiring goods and receiving services from a supplier who is not domiciled in Venezuela; or
- Persons acquiring exempt or non-taxable goods when the exemption is under condition of use and the final use is different.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Venezuela.

3. Place of supply

3.1. Goods

Supply of goods are taxable in Venezuela when they are located in the country. Goods temporarily located in Venezuela are deemed taxable as well.

3.2. Services

Services are taxable in Venezuela when they are carried out or used in the country, even if they are contracted, paid for or carried out abroad.

There is no specific ruling for electronic supplies (i.e., internet downloadable goods) and as such, the aforementioned general rule for services apply to this type of service as well.

International transport services for either passengers or cargo are deemed partially supplied in the country. Therefore, the tax rate established in the VAT Law will be applied on 50% of the value of the plane ticket or freight sold in the country for any flight with departures from Venezuela.

4. Chargeable event, chargeability of tax

4.1. Goods

- Supply to a public entity: when the payment order is issued;
- In all other cases, the earliest of when: an invoice is issued, the goods are delivered, or a payment is received.

4.2. Services

- Services such as electricity, telecommunication, public waste management, television services by cable or any other technological means: when the invoice is issued by the service provider;
- Services supplied on a continuous basis other than those mentioned above: the earliest of when the invoice is issued, a payment is made, or the compensation is totally or partially due;

- Services are supplied to a public entity: when the payment order is issued;
- Services originated abroad, such as technological services, instructions, or any other supporting material that can be subject to special legislation out of scope of the customs procedures, the earliest of when: the invoice is issued by the service provider; the service has been provided, carried out or used; the service fee is paid or becomes due by the service provider; or the goods or works qualified as service are put at the disposal of the service recipient;
- In any other case not included in the above points, the earliest of when the invoices or equivalent documents are issued by the service supplier; the service is performed, paid or requested by the recipient; or the goods qualified as services (such as construction, installations and repair, etc) are put at the disposal of the purchaser.

4.3. Imports

Goods imported into Venezuela are subject to VAT that must be paid at the time import declaration is filed before Customs Services.

5. Taxable Amount

5.1. General Rule

As a general rule, the taxable amount is the price paid for the transaction; however, the fair market value may be the taxable amount when it is lower than the consideration paid for the transaction.

The taxable amount related to imported goods is generally the customs value plus taxes, charges, duties, antidumping fees, compensatory interest and other expenses generated by the importation.

Intangible property coming from abroad is generally included in the supporting material and will be valued separately according to the procedures set forth in the VAT Law and its regulations.

The taxable amount on social or sporting clubs is any consideration paid by the members for the usual activities and availability of the club.

Where there is no monetary consideration, the taxable amount will generally be the value agreed between the parties, provided it is not less than the fair market value. In general, in order to determine the taxable amount, the following should also be considered:

- Adjustments, updates or fixed-pricing agreements that impact the price, commissions, interests, expenses or reimbursements;
- Value of ancillary goods and services, such as transportation, freight, packaging, insurance, guarantees, installation and maintenance (when they are not independent services);
- Value of containers, even when they are separately invoiced, or guarantee deposit;
- Other taxes levied on the transaction in addition to VAT; and
- Discounts, deductions, and price reductions, provided they are usually applicable to commercial activities. This includes promotion strategies such as “buy one, get one free.”

5.2. Exchange Rate Rules

If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate in force by the date on which the supply of goods or services took place.

5.3. Rounding Rules

No rounding rules are provided neither in the Venezuela’s Master Tax Code published on November 18, 2014 nor in the VAT Law.

6. Rates

6.1. Standard Rate

The standard VAT rate is 12%.

6.2. Increased Rate

An additional 15% over the standard rate is applicable on luxury items (27% rate).

6.3. Reduced Rate

A reduced rate of 8% is applicable on certain goods and services (i.e., food and other products for human consumption, services provided to government).

The zero-rate (0%) is applied on exports of movable goods and services. Supply of natural hydrocarbon by joint ventures regulated by the Hydrocarbon Law to Petroleos de Venezuela, SA (PDVSA) and affiliated companies, are also taxable at zero-rate (0%).

7. Exemptions

7.1. Exemption with no right to deduct input VAT

As examples of supplies VAT exempt without credit we could mention the followings:

- Certain food and products for human consumption;
- Fertilizes and natural gas used to produce them;
- Medicines and materials used to manufacture them;
- Gas and derivatives from hydrocarbon and all materials used to improve the quality of such products;
- Motor vehicles with special modifications for handicapped people, as well as wheel chairs, prosthesis and artificial organs;
- Newspapers, journals, and the paper used to print them;
- Books, magazines, and booklets;
- Corn for human consumption;
- Importation of the items above;
- Imports by diplomatic delegations according to International Treaties;
- Other imports set forth in the VAT Law;
- Domestic ground and aquatic transportation of passengers;
- Educational services by registered institutions;
- Lodging and restaurant service for students, the elderly, handicapped people, by the institutions dedicated to these services;
- Tickets to national parks, zoos, museums, cultural and similar institutions; and
- Medical and dental services.

7.2. Exemption with right to recover input VAT (Zero-rated supplies)

- Operations which qualify as exports of movable goods and services under the definition of export provided by the VAT Law;
- Supply of natural hydrocarbon by joint ventures regulated by the Hydrocarbon -Law to Petróleos de Venezuela, SA (PDVSA) and affiliated companies.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a taxpayer can be offset against output VAT, provided that it is attributable to taxable transactions and some additional requirements are met. Input VAT generated at a pre-operative stage can be recovered.

In order to offset said input VAT it must be related to purchases that qualify as costs, expenses or disbursements linked to the taxpayers' regular economic activities.

Where input VAT relates to both transactions within the scope of VAT and exempt transactions, the input VAT will be deductible according to a pro rata calculation.

If during a VAT period the input VAT exceeds output VAT, the difference can be carried forward to subsequent periods until their exhaustion.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Non-resident businesses are required to register for VAT in Venezuela if they carry out taxable transactions and have a domicile (e.g. branch) in Venezuela.

9.2. Registration for taxable persons not established in the country

Venezuela VAT legislation does not provide any registration mechanism for non-resident businesses.

9.3. Application Procedure

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative procedures for-non established taxable persons

There are no specific provisions on this topic.

9.6. Exemption from the requirement to register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

The supplier is the person that is liable to charge and account for VAT on his transactions, except for those cases in which the supplier of the goods or the services is not domiciled in the country. In these last cases, VAT is self-assessed (reverse charged) by the local person liable for VAT.

Withholding agents are also obligated to account for taxes withheld in their records and they must file a return and make payments twice a month.

10.2. Registration

The procedure to obtain a Tax Registration Number (RIF) in Venezuela is as follows:

- The user has to be registered through the tax authority's website (www.seniat.gov.ve);
- The user has a thirty-day period to submit the documentation requested, namely: the articles of incorporation, the legal representative's power of attorney and a document evidencing the address of the taxpayer.
- Once the above mentioned documents have been consigned the taxpayer receives a registration certificate with the RIF Number.

10.3. VAT Identification Number

Businesses should obtain a Tax Registration Number, which is used for all tax purposes (including VAT). This Tax Registration Number (RIF) consists in one letter, eight numbers and a last verifying number which is determined by the Tax Authorities. In case of individuals, the eight numbers correspond to their Venezuela National Identification Card.

Example: J-12345678-1

10.4. Tax authority

SENIAT is the government institution responsible for the administration and enforcement of all national taxes including VAT.

SENIAT may perform audits to ensure tax compliance. This is done by reviewing the taxable persons' accounting records and tax returns. If assessments are issued as a consequence of an audit, SENIAT may force taxpayers to pay any tax liability arisen and the related tax penalties if any.

10.5. Invoicing

10.5.1. Valid Invoice

Invoices should be printed in a specific format as laid out in the "Invoicing Regulations." These regulations establish the format, the dimensions (i.e., legal or letter size), expiration date and other mandatory information that invoices must meet for tax purposes. Invoices (or similar documents) issued by non-domiciled businesses are not required to fulfill such requirements for VAT purposes.

Invoices related to supply of goods should be issued at the time said goods are delivered to the customer. Invoices related to supply of services must be issued within the tax period in which the supplier receives the consideration or payment related to the supply or when the service fee is credited to the account of the supplier.

Invoices issued on pre-established formats or free formats by regular VAT taxpayers need to contain the following data:

1. The word "Invoice" ("FACTURA") as a title.
2. Sequential, consecutive and unique numeration.
3. Pre-printed Control Number.
4. Range of Control Numeration assigned to the invoices, specified as follows "from Nº 0 to Nº 000".
5. Name and last name or corporate name, tax domicile and Tax Information
6. Registration Number (RIF) of the supplier.
7. Date of Issuance, formed by eight (8) numbers.
8. Name and last name or corporate name and RIF of the purchaser of the goods or services. The RIF number may be omitted in the case of individuals who do not require the invoice for tax purposes; in which case the Identify Card or Passport N° of the purchaser of the goods or services has to be included.
9. Description of the goods sold or service rendered, mentioning the quantities and the amount. The quantity may be omitted in cases where the type of services rendered not allows specify of the quantities. In case of goods or services exempt, exonerated or not subject to VAT, the letter "E" should be inserted next to the description of the price separate by a blank space and in parenthesis as follows: (E).
10. When charges additional to the agreed price or service fees are collected or - in case of discounts, bonus, charge eliminations or any other adjustment made to the price, the description and value of such adjustments have to be mentioned. Specification of the total VAT base, splitting by tax rate, mentioning the percentage applicable, as well as specification of the total amount exempt or exonerated.
11. Specification of the total amount of VAT, split by tax rate, indicating the percentage applicable.
12. Indication of the total value of goods or services supplied or the addition of both, if applicable.
13. Inclusion of the wording "Not entitled to tax credit", in case of copies of invoices.
14. In case of operations subject to VAT invoiced in a foreign currency, the corresponding amount in national currency, both amounts must be mentioned in the related invoice, including the total amount and the exchange rate applied.
15. Corporate name and RIF Number of the authorized printing company, as well as the nomenclature and issuance date of the Administrative Provision granting the authorization.
16. Date of preparation on the part of the authorized printing company, mentioning the eight (8) numbers.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing

Self-billing is not allowed in Venezuela, except in those cases where indicated by law.

There are no specific rules on invoicing outsourcing. However, the issuance of valid invoices through outsourced services is not a common practice in Venezuela.

10.5.3. Electronic Invoicing

Public or private companies providing services related to electricity, drinkable water, domestic gas, urban health, basic telephone communications, mobile telephony services, broadcasting by subscription, and Internet are subject to a special invoicing regime which allows them to issue electronic invoicing, providing the following conditions are met:

- They issue over 10,000 documents per month.
- Their database has a tracking log or record of activities in which every action taken for the issuance of invoices is recorded.

- They have enough technical infrastructure to create back-ups on a daily basis of the information contained in invoices; and • Allow SENIAT to monitor invoices issued on a permanent and continuous basis through electronic means (e.g., SENIAT online software).

In addition, the Venezuelan tax authorities are entitled to issue regulations providing for the obligation of issuing electronic invoices.

10.6. Credit notes and debit notes

Credit and debit notes should be issued in case of supplies of goods or services that have been partially or totally "annulled" (void) or when an adjustment has been originated and for which an invoice was issued.

Same requirements applicable to invoices are applicable to credit/ debit notes.

10.7. Books and Accounting Registers/Records

Taxpayers must keep organized accounting records in books, ledgers and files. In addition to the statutory books required in the Code of Commerce, taxpayers are required to keep VAT books of sales and purchases.

All transactions, taxable and non-taxable, must be accounted within the month they are originated. Credit and debit notes must be accounted within the month they have been issued.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period

Taxpayers must keep all accounting records and relevant information related to all taxes, including VAT during the statute of limitations period (from six to ten years) set forth in the Master Tax Code.

10.8.2. Format of Archiving

Records must be kept on hard copies. Taxpayers who keep records by electronic means must keep the magnetic media, diskettes and tapes as well as their physical back-up.

10.8.3. Place of Archiving

Archiving should be kept at the taxpayer's registered tax address (e.g., business address).

10.9. Supporting documentation

VAT taxpayers are required to keep all the necessary information to support the nature and truthfulness of their transactions (i.e., contracts, customs documents, export and import declarations, and invoices). The lack of compliance may trigger an assessment during a tax audit.

10.10. Tax period and VAT returns

Taxpayers are required to file a monthly VAT return within 15 calendar days following the end of the tax period to which it relates or by the date specified in the corresponding calendar in case of Special taxpayers (See 10.14.1). For example, a VAT return for the month of June must be submitted to the Tax Authorities no later than July 15th.

10.11. Due Date for payment of VAT

The VAT must be paid on the filing due date.

10.12. Refunds of VAT

10.12.1. Special Regime for Exporters

The VAT Law provides for a special regime for taxpayers engaged in the export of national goods or services (i.e., goods produced or services rendered in Venezuela) provided that such operations qualify as exports in the terms set forth by the VAT Law.

According to this regime, taxpayers are entitled to recover the input VAT paid on the purchase of goods and services related to export activities. If such exporters carry out supplies in the country, they will only be entitled to recover input VAT related to foreign supplies.

10.12.2. Special Regime for Industrial Projects

VAT Law establishes a special regime for taxpayers engaged in the execution of industrial projects lasting more than six taxable periods. Pursuant to this regime, taxpayers will be able to carry forward input

VAT paid during the construction work up to the time they start their supplies, offsetting said input VAT against output VAT charged.

Taxpayers engaged in the execution of industrial projects aimed at exporting or generating foreign currency may (with prior authorization of the Tax Authorities), choose to recover the input VAT paid in construction work related to the project, provided that they have been incurred during the pre-operating stage of such project.

Please note that 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.

There is no VAT refund mechanism for non-established businesses.

10.13. Additional Reporting (statements)

Withholding agents are required to file electronically a supplement report of purchases and withholding taxes applied during the respective two-week period.

10.14. Other measures

10.14.1. Special Taxpayer

The Tax Authorities, bearing in mind that certain categories of taxpayers require specialized attention, created a special category of taxpayers, based on their income level, sector or economic activity.

Taxpayers, who qualify additional as special taxpayers and were notified by the Tax Authorities as such, are required to fulfill the obligation of paying and filing tax return, exclusively in the place indicated in the corresponding notice, and on the date indicated in the calendar published every year by SENIAT.

11. Auditing

11.1. Auditing

SENIAT Officers are authorized to audit filed tax returns. They notify taxpayers of the tax years that will be reviewed beforehand.

These officers are authorized to audit all the taxpayer's books and records and may request additional information on any questionable items. The officers can also carry out an official estimate in those cases in which satisfactory information cannot be obtained. Once the audit is concluded, the Tax Authorities may issue a tax assessment if it is not consistent with the taxpayer's tax return.

The taxpayer has a period of 15 days to pay the additional tax, including a fine and the corresponding interest on late payment.

11.2. E-Auditing

In Venezuela, E-auditing systems have not yet been implemented.

12. Penalties and risks for non-compliance

12.1. Penalties

Failure to file is subject to a fine equivalent to 100 Tax Units (the Tax Unit Value for year 2018 is VEF 500) and an additional fine equivalent to 30% of the omitted or assessed tax, in addition to the closure of the business premises for ten days. The late filling of tax returns is subject to a fine equivalent to 100 Tax Units.

In case of additional tax obligations as a result of a tax audit, the Tax Authorities may apply fines ranging from 100 to 300% of the tax due.

Those who by means of misrepresentation, concealment or any other kind of deceit lead the Tax Authorities to a wrong conclusion and accordingly pay less taxes (tax fraud) will be subject to a jail sentence ranging between six months and seven years.

12.2. Interest on late payments

Late payment of taxes is subject to interest on debts equivalent to the maximum bank interest rate increased by 20%.

12.3. Joint Liability

Corporate directors, managers or administrators are liable for the payment of taxes, fines and supplementary tax payments derived from the goods that they administer.

13. Statute of Limitations

In case taxpayer has filed the mandatory tax returns, the statute of limitations period for the Tax Authorities to be able to verify, audit, assess and impose tax penalties is six years. However, the Tax Authorities have a period of ten years when no tax return has been filed, the taxpayer has not been registered, or the accounting records have not been properly kept.

13.1. Recovery of VAT by the tax authority

The right to demand payment of tax liability and impose pecuniary penalties is barred by statute of limitations within a period of six or ten years, depending on the case.

13.2. Recovery of VAT by the taxable person

The taxpayer's right to recover taxes paid in excess or unduly paid is also barred by statute of limitations to a six year period.

14. Rulings and Decisions

Taxpayers may request rulings from the Tax Authorities regarding the application of tax standards to a specific situation. No penalty can be imposed to taxpayers who have applied the criterion stated by the Tax Authorities on a ruling issued related to the matter at hand.

The decisions are applicable only to the relevant taxpayer and are used to interpret tax laws. Case-laws are not binding at a general level, except for sentences issued by the Constitutional Division of the Supreme Court of Justice related to the content and scope of constitutional standards and principles.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

Since 2003, the Venezuelan Government has been applying the "Zero Evasion Plan". According to declarations made by the highest authorities of the Tax Authorities, the plan seeks to discourage tax crimes by increasing taxpayers' risks and reinforcing the basis of the citizens' tax liabilities.

The Plan contains three fundamental guidelines:

1. Establishment and promoting a tax culture that encourage taxpayers to demand invoices; reject blank checks, and report tax evaders;
2. Verification and inspection of formal duties attributed to: commercial establishments specialized in the provision of personal and corporate services as well as industrial establishments; and
3. Implementation of the continuity of the fight against smuggling and customs fraud.

Within the framework of the Plan, the Venezuelan Government has taken a number of actions nationwide, which include the temporary closing of establishments for non-compliance, among others, with formal duties associated with the VAT (i.e., VAT sales and purchases, valid invoices, etc).

16. Other Rules

16.1. VAT withholding regimes

As of 1 January 2003, with some amendments made in February 2005 and, more recently, in September 2015, a standard was entered into effect whereby taxpayers qualified by the Tax Authorities as Special Taxpayers and the Public Entities were designated as VAT withholding agents.

According to the aforementioned standard, special taxpayers must act as VAT withholding agents when they purchase goods or services from suppliers qualified as regular VAT taxpayers.

In this regard, the amount to be withheld by the special taxpayers 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; or 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 before the RIF. In these latter cases, special taxpayers must withhold 100% of the output VAT due on the transaction.

Suppliers may offset 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 a regular taxpayer exceeds the taxpayer's VAT liability corresponding to the relevant tax period, such taxpayer may offset and carry forward the tax withheld from VAT liability to the following tax periods until their total offsetting.

If after three tax periods there is still excess tax withheld that is not offset, the taxpayer may claim the total or partial refund of such credit. Within the same claim suppliers must indicate their intention to offset or assign such tax credit, if a favorable decision is obtained from the tax authorities, by identifying the tax, the amount, the assignee and the tax against which the assignee will impute the respective tax withheld. Withholding agents or assignees may only offset such tax withheld once they have received the Approving Resolution from the Tax Authorities.

16.2. Other regimes

16.2.1. Currency Exchange Rate Control

In January 2003, the Venezuelan government and the Venezuelan Central Bank (VCB) restricted the free trade of foreign currency and established an Exchange Control Regime, which is currently administered by the VCB and the National Center of Foreign Commerce (CENCOEX). Nowadays, the main mechanism for the offer and purchase of foreign currency is that provided in Exchange Agreement N° 39 enacted on January 26, 2018 (and reprinted on February 14), which provides an auction based mechanism for the Complementary Floating Exchange Market System (DICOM as per its Spanish Acronym). Main considerations of Exchange Agreement N° 39 may be summarised as follows:

- The applicable exchange rate reference resulting from the auctions will be the lowest rate awarded to legal persons. The DIPRO or protected exchange rate as provided in Exchange Agreement N° 35 has been abrogated.
- Individuals are allowed to purchase a maximum of Euro 420 per quarter and legal persons must calculate the maximum allowed amount per month on the basis of gross income reported in the corporate income tax return, with a limit of Euro 340,000.
- The auction based system provided in Exchange Agreement N° 38 has been abrogated.

The Law on the Currency Exchange Regime and Currency Exchange Violations is in effect, thereby establishing the actions that constitute exchange crimes and their respective penalties. Said penalties may be both criminal and pecuniary.

Venezuela
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