LATCAM Tax update 2024

Brazil, Chile, Colombia, Mexico and Peru

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THE LATIN AMERICAN CHAMBER OF COMMERCE IN SWITZERLAND
Your business bridge between Latin America and Switzerland

Agenda

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01

Section 01:

With you today

Speakers

THE LATIN AMERICAN CHAMBER OF COMMERCE IN SWITZERLAND
Your business bridge between Latin America and Switzerland

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Brazil

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Peru

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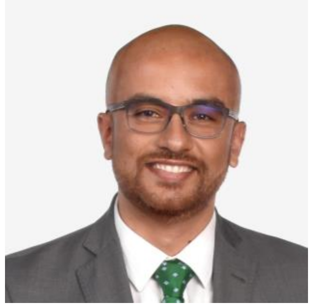
Chile



Andrés Cortés Hernández

Colombia

Jose (Pepe) Jimenez

Mexico

Francisco Zamora

Switzerland / Mexico

Introductory video

02

Section 02:

What are the 2024 Tax Reforms?

What are the 2024 Tax Reforms?

Chile

Upcoming Tax Reform

- During last year, the Government submitted two bills to modify the current tax system. However, these **proposals failed**, and it were rejected by the Senate. Therefore, according to local law, the Government has to wait a year to submit another bill related to this issue.

- In December 2023, the Government announced that the so-called ***"Pacto Fiscal"*** is going to be submitted to Congress in January (For Tax compliance issues) and March 2024 (to modify the Income Tax Law). According to the last announcement, the bill for Tax Compliance Reform is going to be submitted this week.

- In the meantime, there are no specific details about both projects, just some general ideas, such as: measures to strengthen the transparency of public expenditure; boost productivity and combating tax evasion and avoidance.

- On other general matters, last December, Chile rejected the second proposal for a new constitution. With these results, there are no further plans to amend the current constitution or convocated to another referendum in the near future.

What are the 2024 Tax Reforms?

Chile

1. Tax Treaty between Chile - US

- Tax Treaty between Chile and the United States has entered into force. This is relevant for our country, as we are the second Latin American country to have an agreement in force with the US and the only one DTT to have entered in force in more than 10 years.
- The treaty applies from 1 February 2024 in respect of withholding taxes and applies for all other taxes from 1 January 2024.
- More important provisions:
  - WHT on interest from 35% to 4%, 10%, or 15% rate;
  - WHT on Royalties from Chile or the US may be reduced from 30% to 2% or 10%.
  - Dividends: There will be no effect on the Chilean dividend withholding tax on dividends paid from Chile to the US.
  - Capital Gains: The treaty’s implementation reduces the tax rate from 35% to 16%, in some cases.

What are the 2024 Tax Reforms?

Chile

2. Updated Version of the Catalogue of Tax Schemes

- On December 27, 2023, the Chilean Tax Authority released the 8th edition of the Catalogue of Tax Schemes.

- The primary purpose of this catalogue is to clarify certain situations regarding tax compliance rules (especially about GAAR) across various issues and business models that could potentially impact the Chilean tax system.

- In this new version, the SII includes a total of 85 schemes, adding ten more cases.

What are the 2024 Tax Reforms?

Chile

3. Ultimate Beneficiary Owners Registry – Bill Project

- The Chilean Senate is currently reviewing a proposal issued by the government to establish a new National Registry of Final Beneficial Owners ("UBO"), called *Registro Nacional de Personas Beneficiarios Finales*.
- This registry will require entities to provide information on any final beneficiaries who hold at least 10% of the capital or voting rights in legal entities, investment funds, and other profit and non-profit entities. This Registry will be kept by the Chilean Tax Authorities.
- This platform will contain information about the ultimate beneficial owners of legal entities, investment funds, and other type of entities without legal personality. The information will be kept for 10 years.
- If the legal entity is involved with the Chilean government through contracts or receives money from the state, their information will be public.
- This measure is in line with OECD´s recommendations.

What are the 2024 Tax Reforms?
Colombia

1. Tax reforms

1.1 Significant economic presence (SEP)

- The SEP makes taxpayers non-resident individuals or companies that sell goods or provide services in Colombia.
- The criteria for joining the SEP are the intention to remain in the Colombian market, revenues at least US$375,860 and the sale of goods or provision of services from abroad (e.g. advertising services, streaming, etc.).

1.2. Simple income tax regime (Constitutional Court judgment C-540 de 2023)

- Special income tax regime that reduces nominal tax rates.
- Judgmental C-540 of 2023 upheld more favourable tariffs for professional service providers.
- These range from 5.9% to 14.5% depending on income.
- In the above case, the income limit to enter this regime is US$1.200.765.

1.3. Healthy Tax

- A healthy tax should be paid on the production, sale and importation of high-sugar drinks and industrially ultra-processed food.
- The importers and manufacturers of these products are the taxpayers of health taxes.

1.4 Tax on single-use plastics

- The tax on single-use plastics is payable on the sale, withdrawal from stocks or import for own consumption of single-use plastics.
- Taxpayers are producers or importers of single-use plastics.

What are the 2024 Tax Reforms?
Colombia

2. Tax incentives

2.1 Tax incentives for the generation of electricity from non-conventional sources

- 50% income tax deduction for the investment made for a period of 15 years.
- Accelerated depreciation of 33.33% on equipment and machinery related to non-conventional energy generation projects.
- Exclusion of VAT on the acquisition of goods and services for the development of power generation projects with FNCE.

2.2. Discount for VAT paid on the acquisition of real productive fixed assets

- VAT paid on acquiring, manufacturing and importing real productive assets may be discount from income tax.

2.3 Colombian Holding Companies regime

- Special tax regime created to encourage foreign investment in Colombia, fulfilling specific requirements.
- Dividends distributed by non-resident entities to a company registered under this regime are exempt from income tax.
- Companies registered under this regime are not subject to withholding tax on dividends distributed to foreign companies.
- Capital Gains from the sale of Colombian Holding Companies to entities resident abroad is exempt in Colombia. (e.g., income tax / capital gains)

What are the 2024 Tax Reforms?
Colombia

3. International taxation

- Colombia has 14 double taxation treaties in force. Among them, Switzerland, Mexico and Canada stand out.
- Agreements signed with: Brazil, Netherlands, Uruguay and the United Arab Emirates have not entered into force.
- The latest tax reform in Colombia indicates a significant response to BEPS 2.0, as seen in the notable changes within the SEP.

Publications of the most relevant regulatory changes, resolutions and judgments during the year in relation to tax, corporate, labor transfer pricing and intellectual property issues.

What are the 2024 Tax Reforms?
Mexico

1. Tax Incentive - Export industry

1.1 Only for industries that develops activities in the following sectors:

- Semiconductor, automotive (especially in electromobility), electrical and electronic industries, medical and pharmaceutical devices, agribusiness, and human and animal food sectors, among others.

1.2 Accelerate deduction of new fixed assets:

- Accelerate deduction of new fixed assets:
- Acquired between October 2023-Decembre 2024
- Accelerate deduction between 56%-89%
- Mandatory that the exportation of goods represent 50% of the total income.
- Not applicable for furniture, office equipment, combustion cars and aircrafts for agricultural air fumigation.
- Notice form needed to apply the incentive within 30 days following the month in which the stimulus is applied for the first time

1.3 Additional deduction for training expenses

- Additional deduction during 2023-2025.
- It applies to training that consists of technical or scientific knowledge that is linked to the taxpayer's activity.
- Additional deduction equivalent to 25% of the increase in training expenses received by each of the workers in the year.

What are the 2024 Tax Reforms?

Mexico

2. International taxation

- Multilateral Instrument (MLI) in force since January 1st 2024
  - It should be noted that Mexico selected its entire network of tax treaties as covered tax treaties. This means that if any treaty partner did not include Mexico in its covered tax treaties the MLI would not be applicable. Germany did not include Mexico as covered treaty.
- No Pillar 2 local regulations yet
- New Tax Information exchange agreements with:
  - Burkina Faso
  - Independent State of Papua New Guinea
  - Republic of Benin
  - Socialist Republic of Vietnam

What are the 2024 Tax Reforms?
Peru

1. Tax compliance

1.1 “Compliance Profile”

- Taxpayers will be classified by the tax authorities based on a "Compliance Profile“ that will impact their performance.

- Regulations published on December 30, 2023, provide the necessary framework for the gradual application of this rule.

1.2 “Subject without Operational Capacity”

- Taxpayers could be qualified by the tax authorities as a “Subject without Operational Capacity” (“SSCO” by its Spanish acronym). The SSCO status remains in force for a period of 4 years.

- The condition relies on the detection of situations connected with the issuance of billing documents (e.g., invoices) and complementary notes (debit or credit) where: there is a lack of economic, financial, material, human and other resources necessary to carry out the operations for which such documents were issued; or those that do exist are not suitable for those purposes.

- Documents issued by SSCO will not allow the use of an input VAT, nor can they be used to substantiate costs/ expenses for CIT purposes.

- Regulations have been published on December 30, 2023, providing the necessary complementary provisions to enable the tax authorities to undertake actions.

1.3 UBO Disclosure Rules

- The format to be filled out by the individual qualifying as the Ultimate Beneficial Owner (“UBO”) of legal entities and certain legal arrangements, as support for the information to be included in the UBO's informative return, may be managed electronically and with a digital signature (following certain parameters).

- The due dates initially set forth for legal arrangements to comply with the submission of the UBO’s informative return has been deferred until July 2024.

1.4 End of the tax exemption on capital gains

- Capital gains from transactions carried out by individuals through the Lima Stock Exchange (BVL) are **no longer exempted.**

What are the 2024 Tax Reforms?
Peru

2. Tax refund applications

- Changes introduced in December 2023 impact the interest that will be paid by the tax authorities on refund applications.
- As a result, they must apply the monthly moratoria interest rate applicable to the determination of tax assessments ("TIM" by its Spanish acronym), equivalent to 0.9%.

3. Tax treaties

3.1 Formalities related to residence certificates

- A binding tax precedent from the Supreme Court stated that if the relevant tax treaty does not establish that a timely tax residency certificate is a pre-condition for access to treaty benefits, local law cannot impose that pre-condition on taxpayers unilaterally.
- The certificates of residence are documents that are required to the local withholding agent to apply treaty benefits at the time of liquidating the Income Tax of nonresidents. The resolution places the rules of the treaty before an excessive requirement provided by domestic provisions.

3.2 Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI)

- On June 27, 2018, Peru became the 80th jurisdiction to sign the MLI. However, its entry into force is subject to ratification by the Congress.
- According to the peer review publication 2023, Peru has listed 9 treaties in the MLI, which will introduce the preamble of the MLI declaration (Article 6) and the general clause of the TPP (Article 7).
- It should be noted that in the case of the treaties that Peru has with Brazil and Switzerland, with whom the instrument has not been signed, the pertinent modifications should be negotiated in all its aspects.

Publications of the most relevant regulatory changes, resolutions and judgments during the year in relation to tax and transfer pricing issues.

What are the 2024 Tax Reforms?
Brazil

At a glance

- On December 20th, 2023, the bill of the Tax Reform was approved by the National Congress, which basically, adopts a VAT (Value Added Tax) system while replaces 5 consumption taxes by 3 taxes (“IVA Dual” and “Selective Tax”).

- From now on, the Executive has up to 180 days to submit the complementary bills that will regulate the reform. According to the Ministry of Finance, the base rate estimated is set at 27.5%.

Current Taxes		After the Reform: VAT Model		
PIS, COFINS	→	CBS	IVA DUAL →	Federal IVA - Goods, services, tangible and intangible imports and digital economy
ICMS, ISS	→	IBS	IVA DUAL →	Sub-national IVA (ICMS - States and ISS - Municipalities)
IPI	→	IS – Selective Tax	→	Federal Tax: “production, commercialization or importation of goods and services harmful to health or the environment”

- Transition rules - 7 years:
  - 2026: 0.9% CBS and 0.1% IBS, offset against PIS/COINS;
  - 2027: CBS fully implemented end of PIS/COFINS, and IPI rates reduced to zero (except Manaus Free-Trade Zone);
  - 2029 to 2032: IBS rate increased in proportion to reductions in ICMS and ISS rates
  - 2033: new tax system takes full effect as the old one comes to an end.

What are the 2024 Tax Reforms?
Brazil

At a glance

- Non-cumulativeness, cashback (return of part of IBS to low-income families), end of “gross-up” (it will not compose its own tax base).
- Differentiated Regimes:
  - Manaus free zone
  - Simplified National System
  - Fuels and lubricants, Cooperatives, Hotel services, Restaurants, Regional aviation, Amusement parks and them parks.
  - Financial services, real state transactions, health care plans and contests.
- Credits:
  - CBS credits will be refunded within 60 days
  - ICMS credit balances: it will be possible to offset with IBS credits (upon approval) after 2032. Complementary law may establish more uses.
  - PIS/COFINS balances: it will be possible to compensate these with CBS and IBS credits after the latter have been created.
- Tax rates: it will be defined standard rates (except for (i) municipalities that will be able to adopt the suggested rate or establish their own, and (ii) exceptional IBS and CBS rates for specific goods and services listed in the Brazilian Constitution).
- Income Tax: once the PEC has been enacted, the Executive has 180 days to submit a bill on income tax reform.

What are the 2024 Tax Reforms?
Brazil

Transfer Pricing New Law

- The new TP model in Law No. 14,596 of 14 June 2023, substantially, changes the legislation currently in force, for the purposes of alignment with the OECD TP guidelines, and it becomes effective on 1 January 2024, but the companies are allowed to early adopt it as of 1 January 2023.

- Adoption of the arm's length principle and broadens the related-party concept, to encompass any commercial or financial transactions with related parties abroad.

- It turns from a fiscal and legal application of the rules to a financial and economic concept analysis to outline the transaction (main economically relevant characteristics of the transaction (e.g., contractual terms, functions, characteristics of goods, services or rights, economic circumstances and business strategies).

- The new TP system applies to all cross-border intercompany transactions (i.e., intangibles, cost-contribution agreements, and business restructuring).

- TP methods according to the OECD standard (PIC2, PRL3, MCL4, MLT5, MDL6) and best-method rule for intercompany transaction analysis.

- Adoption of comparability analysis.

- Introduction of compensatory adjustments (adjustment in the transaction amount until the end of the calendar year), in addition to the spontaneous/ primary adjustments (adjustment to the IRPJ and CSLL taxable basis).

What are the 2024 Tax Reforms?
Brazil

Transfer Pricing New Law

- Commodities – specific rules: it will no longer be applicable a list of commodities; need to properly evidence the date of the transaction; specific ancillary obligation/registration for transactions involving commodities; preference for application of the PIC method, including based on quoted prices or prices charged to unrelated partied (internal comparables).

- Intangibles - specific rules: analysis of relevant functions and economically significant risks.

- Intragroup services – specific rules: the use of indirect apportionment criteria under the MCL and the impossibility of charging a profit margin on the mere transfers of funds from third parties.

- Introduction of the definition of cost contribution arrangements.

- Application of transfer pricing rules to business restructurings (e.g., transfer of assets to other jurisdictions), by assessing risks and potential profit, among others.

- Inclusion of all financial transactions (e.g., guarantees, insurance, etc.) under the scope.

- Documentation – larger and complete, with information on the comparability analysis, structure and activities of the group and global allocation of revenues and assets.

- Fines: imposed based on percentages of gross revenue in case of non-compliance with the required documentation, limited to BRL 5 million.

Brazil

Your company is prepared for the Tax Reform? Download now the Mazars e-book and understand more about the changes in the Brazilian tax system that will happen with the Tax Reform.

03

Section 03:

Statistics and figures for 2024

Economic Indicators
LATAM

Indicator	Brazil	Chile	Peru	Colombia	Mexico
GDP	✓ Growth: 3.2% 2023 (2.9% 2022) ✓ Decrease: 1.9% 2022 Q2	✓ Growth: ✓ Q1 2023 -0.7 ✓ Q2 2023 -0.8 ✓ Q3 2022 0.6 ✓ Q4 2022 2.3	✓ Growth (forecast): 2.5% 2024 ✓ Contraction: 0.4% 2023 ✓ Growth: 2.7% 2022	✓ Growth: ✓ Q1 2023 3% ✓ Q2 2023 0,3% ✓ Q3 2022 -0,3%	✓ Growth: 3.4% 2023 ✓ Growth: 3.9% 2022
Inflation	✓ 4.6% (3.9% expected 2024)	✓ 4.5% (3.5% expected 2024)	✓ 3.24% (2.3% expected 2024)	✓ 9.28% (5% expected 2024)	✓ 4.66% (4 % expected 2024
Growing sectors	✓ Agribusiness 18.1% ✓ Oil & gas / Iron 7.9% ✓ Financial Services/Insurance 7.0%	✓ Production of goods 3.6% ✓ Services 1.2%	✓ Mining 7% ✓ Hydrocarbons 1.2% ✓ Exports of goods and services 1.7%	✓ Public Administration 5.3% ✓ Entertainment 4.9%	✓ Agribusiness 2.7% (Increase 1.1% vs 2022) ✓ Tertiary activities 3.2%(Increase 0.1% vs 2022)
Decreasing sectors	✓ Consumer goods -2.6%	✓ Commerce -1.4%	✓ Agriculture -0.5% ✓ Fishing industry -27.9% ✓ Manufacturing -4.2%	✓ Manufacturing -6,2% ✓ Commerce -3,5% ✓ Construction -8.0%	✓ Oil, gas & mining 3.7%(Decrease 1.6% vs 2022)

04

Section 04:

Conclusions

Conclusions

Chile

- Upcoming Tax Reform. The tax compliance bill will be presented to the congress this week.
- The Tax Treaty with the US will encourage new investments and reinforce our commercial relations with this country.

Colombia

- Colombia has a strong tendency to follow OECD guidelines.
- Tax treaties with Mexico and Canada open up investment opportunities in Colombia.
- No drastic changes have been implemented for FY2024. However, a tax reform is expected that will reduce corporate taxes.

Mexico

- Some specific incentives for the export industry.
- Itzmo de Tehuantepec project (Pacific to Atlantic 7 Hours)
- Stay tunned to developments on specific regulations regarding International Taxation.
- 2024 Presidential election, stability.
- Mexico Credit rating as stable by the Qualifiers.

Peru

- No drastic changes have been implemented for FY 2024. Special attention must be made to the tools provided to the tax authorities to combat tax evasion and avoidance (for domestic and cross-border transactions).
- Overall, it is expected that the Government will continue to improve the tax system with the goal of becoming an OECD member by 2026.
- Stay tunned on future regulatory developments.

Brazil

- The current moment requires analysis and action. It is important to emphasize thar the implementation of the new legislation presents significant challenges for companies, new methods, robust documentation, eventually, reassessment of intragroup strategies, etc.
- The reform aims to simplify national taxes, however, it is very important to be prepared to be able to deal with the different systems during the transition years, as well, to better understand the impacts on its tax burden, according to the different kinds of business.

05

Section 05:

Questions

Contact

Mazars

Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services*. Operating in over 95 countries and territories around the world, we draw on the expertise of more than 47,000 professionals – 30,000+ in Mazars' integrated partnership and 17,000+ via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.

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