



Latam Tax Insights

Mazars in Latin America

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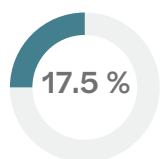
Economic and tax measures for the new Argentine government

Mazars in Argentina

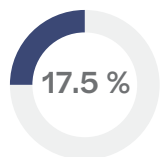
With the change of government, Argentina initiates a process of tax revenues adjustment trying to achieve tax balance. In the medium term, a stage is expected where the entire tax system is restated to achieve a reduction in taxes that attracts investments and generates employment opportunities.

Among the measures adopted are the following:

- The Central Bank has made access to the free exchange market for goods and services imports more flexible, eliminating bureaucratic and administrative obstacles which obstructed access to foreign currency. This is the reason for the establishment of differentiated payment terms, according to the nature of the imported goods and services.
- The Executive Branch has issued a necessity and urgency decree establishing a public emergency in economic, financial, tax, administrative, pension, tariff, health, and social matters until December 31, 2025, in order to deregulate the economy. Among other measures, the modernization of the labour regime is established, with modifications to the Labour Contract Act and the Employment Act.
- As of December 13, 2023, some operations contracted abroad began to pay a rate of the Country Tax:
 - The imports of merchandise, except in the case of goods included in the basic food basket, lubricating fuels and additives, among other goods, will begin to be taxed at a rate of 16.625% as payment on account of the Country Tax, for the destinations officialized on December 13, 2023.
 - As of December 13, 2023, all operations covered by the Country Tax are subject to a single 30% collection, which may be computed as a payment on account of income and personal property taxes of the same fiscal year in which perceptions were made. Consequently, the 100% and 25% perceptions are rendered completely void.
 - The implementation of a new tax amnesty is under analysis, which will include both business subjects and individuals, and a regularization for the payment of tax, customs, and social security debts accrued as of December 31, 2023, releasing interest and penalties.
 - With regard to international matters, on December 11, 2023, Argentina signed an invitation letter to access the Organization for Economic Cooperation and Development (OCDE). This is a preliminary step within the admission process for OCDE integration.



In the case of Freight and Transportation Services.



For the imports of merchandise, except in the case of goods included in the basic food basket, lubricating fuels and additives, among other goods.

Overview of the new agreement to avoid double taxation between Chile and the United States

Mazars in Chile

This article discusses the effects generated by the agreement which avoids double taxation between Chile and the United States. After many years, this agreement came into force on December 19, 2023, when President Joe Biden signed it.

Although the Chilean Parliament approved the initiative in 2015, after being amended and ratified by the United States, last June, it had to return to the Chilean Congress. The agreement was processed in less than a month after its entry on October 25, 2023.

The agreement seeks to strengthen the development of trade and international transactions between both countries, in addition to strengthening cooperation in tax matters. Another goal is to eliminate or reduce tax obstacles that affect the activities and investments from or to Chile. According to the Minister of Finance of Chile, Mario Marcel, currently “investment from the United States accounts for 10.9% of foreign investment and we hope that it shall continue growing with this agreement.”

Consequently, Chile became the second Latin American country, after Mexico, to have this type of agreement with the United States.

Tax Effects

Among the tax opportunities of the agreement, the most relevant for Chileans is the reduction of the tax burden of a direct investment in the United States, for which the dividends withholding from the United States used to be up to 30%, but now it shall be only 5%.

With respect to the payment of interest from Chile, in general terms, the Additional Tax rate shall be 15%, to be reduced to 10% after 5 years, while there shall be a preferential withholding of 4% applicable only to banking entities, insurance companies, financial institutions, among others.

Regarding services, the current withholding of 15% to 35% would be reduced to zero if there is no permanent establishment in Chile. Therefore, it is relevant to review the local Value Added Tax regulations which shall be applied to replace the Additional Tax.

Another interesting issue to consider is the payment of Royalties from Chile, where the current withholding rate is 30%; however, it shall be reduced to 10%.

In the other hand, Capital Gain is limited to an Additional Tax withholding of 16%, to the extent that the transferor has not owned, in a period of 12 months before the transfer, more than 50% of the corporate interest in the entity resident in Chile.

Lastly, this agreement shall generate an opportunity to review the investment structures frequently conducted by Chilean residents in the United States

or by the American residents in Chile. For example, financing with unrelated entities or through third parties in areas where some of those involved maintain current agreements to avoid double taxation.

Conclusion

Obviously, the agreement should contribute to Chile becoming a hub for services and intangible assets which can be licensed in the region through American companies with Holding entities domiciled in Chile. However, Mexico already has an agreement with the United States for more than 40 years. The context is completely different and not very comparable, considering that the commercial and economic relationship between both countries is based on geographical reasons, such as sharing an extensive border, which makes it very difficult for Chile to equal or compete with Mexico. However, it is an experience that should be analysed.

From Chile's point of view, this agreement represents a consolidation of the country within Latin America as a potential investment vehicle for a gateway to the United States.

Details about the new Simple Tax Regime in Colombia

Mazars in Colombia

Through Act 2010 of 2019, which mostly reproduced the text of Act 1943 of 2018, declared unenforceable by the Constitutional Court, a substitute regime for income tax named the Simple Tax Regime (STR) was created in Colombia and came into force on January 1, 2020. Its objectives are, among others, to reduce formal and substantial burdens, promote formality, and simplify compliance with tax obligations through the integration of Income Tax, National Excise Tax, and the Consolidated Industry and Commerce Tax.

The main characteristics of this regime are:

- Natural or legal persons who meet all these conditions have access to the simple tax regime:
 - I. A natural person who develops a company or a legal entity resident in Colombia.
 - II. Persons who receive gross income less than 100.000 tax value units (TVU) during the immediately preceding year. For those individuals who provide consulting and scientific services, Tax Reform Act 2277 of 2022 established 12.000 TVU as income limit in order to belong to this regime; however, the Constitutional Court, through Decree C-540 of 2023, decided to declare such provision unenforceable. Therefore, in 2024, all natural and legal persons shall be subject to the income limit of 100.000 TVU, that is, COP \$4.706.500.000.
 - III. If the natural persons associated have one or more registered companies, the limits shall be met on a consolidated basis.
 - IV. If the natural persons associated have a stake of more than 10% in unregistered companies, the limits shall be met on a consolidated basis.
 - V. If the natural persons associated are managers, the limits shall be reviewed on a consolidated basis.
 - VI. Being registered in the Single Tax Registry (STR), electronic compliance programmes, and electronic signature.
- The tax generating event is obtaining gross income (ordinary and extraordinary) capable of increasing assets. Occasional profits, generated by the perception of profit in the disposal of fixed assets owned for more than two years, from the liquidation of companies, inheritances, legacies, donations, lotteries, prizes shall not be part of this tax.
- The amounts paid for contributions to the General Pension System by the employer contributing to the STR may be taken as a tax discount.

- An annual declaration with bimonthly advances must be submitted.
- 0.5% of the payments received by the entrepreneur, through debit or credit cards or any other electronic payment methods, are deducted from the STR tax payable. This discount does not impact municipal or district resources.
- You may deduct from the tax payable the Tax on Movement of Funds (TMF) which has been effectively paid during the relevant taxable year, regardless of whether it is related to the economic activity carried out or not. It is not cumulative with the discount for electronic payments.
- Tax rates range between 1.2 and 14.5%, depending on the income and business activities carried out.
- Taxpayers are not subject to withholding at the source or to self-withholding.
- Registration in the STR must be done until the last business day of February of the taxable year for which the option is exercised. For those registering for the first time in the STR, they may do so at any time with the registration.

Ultimately, according to regulation, the following may not access the regime:

- Foreign legal entities or their permanent establishments.
- Natural persons without residence.
- Natural persons with an employment contract.
- Affiliates, subsidiaries, or branches of foreign companies.
- Companies that are shareholders or beneficiaries of other companies in Colombia or abroad.
- Financial entities.
- Persons who carry out specific activities (microcredits, asset management, factoring, financial counselling, activities related to electrical energy, automobiles, fuel imports, firearms).



Multilateral instrument use in Mexico as of January 1, 2024

Mazars in Mexico

The main purpose of the Multilateral Instrument (MLI) is granting, to the Member Nations of the Organization for Economic Cooperation and Development which adhere to said provision, the possibility of complying with the Provisions of Minimum Principles of the tax treaty which were agreed upon as part of the tax basis erosion and profit shifting (BEPS).

It is necessary to remember that Mexico selected its entire network of fiscal conventions as covered tax agreements. This means that if any treaty partner does not include Mexico in their covered tax agreements, the MLI would not be applicable.

In our country, the MLI came into force on July 1, 2023, in accordance with what its own instrument states: the first day of the month following the conclusion of a period of three calendar months from the date of deposit, which was April 15, 2023.

The MLI provisions will be effective for a specific Fiscal Convention under the following terms:

- Withholding taxes at source: the Multilateral Convention shall be effective on the first day of January of the year after its enforcement for both contracting countries.
- Any other tax imposed by a contracting country: for fiscal years beginning after a period of six months from the enforcement of the MLI.

Accordingly, for most conventions entered into by Mexico, the MLI will be applicable as of January 1, 2024.

We consider that it is important to carry out an analysis of the transactions of the companies which take place after 2024 in which a fiscal convention is applied. With these new provisions of the MLI, there may be significant changes in the use of the conventions.

New provisions for the identification of the final beneficiary of legal persons or entities in Peru

Mazars in Peru

The legal persons or entities required to inform the Tax Administration of the identification of their final beneficiaries must implement an internal procedure that includes reasonable mechanisms to obtain and retain the required information. Said due diligence procedure includes, without limitation, implementing the filling out of a form in which the final beneficiaries should enter their identification data and, if applicable, the information referring to the chain of title assumptions.

Until November 11, 2023, this format was carried out physically. It had to contain the signature of the final beneficiary certified by Notary or by consular means, a situation which generated great challenges and operational difficulties, especially in complex structures. However, by virtue of Superintendency Resolution N° 000236-2023/SUNAT, published on November 10, 2023, taxpayers now have an alternative means to the physical format, so that their final beneficiaries may provide the required data.

By virtue of the published resolution, today it is feasible to implement an electronic document that the final beneficiary may sign digitally, and which shall facilitate compliance with the due diligence procedure by the obligated subjects, especially in situations where natural persons who qualify as final beneficiaries do not live in Peru. In this late case, for the validity of the digital signature, the certifying company must be accredited before the Peruvian regulatory entity (INDECOPI); otherwise, the format will not comply with the formalities required in the country and will not be recognized in the case of a potential inspection.

Additionally, so that legal entities may implement the electronic document to replace the physical format and carry out the corresponding validations and verifications, an additional period has been approved for them to comply with submitting the informative affidavit of the final beneficiary. This deadline is July 2024, when legal entities must adopt the necessary measures that allow them to have the required information, duly updated, on time.

It should be noted that the fine for non-compliance with the submission of the informative affidavit of the final beneficiary or submitting it in an incomplete manner or with false information, may be up to USD 67,300. Likewise, failure to keep information that supports compliance with due diligence procedures during the established period may result in a penalty of up to USD 33,650.

Uruguayan tax trends in international tax matters

Mazars in Uruguay

In 2023, Uruguay witnessed significant changes in the tax area, highlighted by two key events: entering into the Information Exchange Agreement with the United States and the enforcement of the Double taxation Agreement with Brazil. These events reflect the country's commitment to transparency and international collaboration, setting important guidelines in its tax policy.

Information Exchange Agreement between Uruguay and the United States

In a significant step towards fiscal transparency and tax collaboration, Uruguay and the United States have entered into a Tax Information Exchange Agreement (IEA). Although its enforcement is pending Uruguayan legislative approval, this agreement represents a milestone in tax relations between both countries.

Uruguay has demonstrated prior commitment to international cooperation entering into thirty-nine bilateral agreements, including 14 IEAs and twenty-five agreements to avoid double taxation (DTAs). Our tax administration, the General Tax Directorate (GTD), has played an active role in the exchange of tax information with various nations, among which its cooperation with Argentina stands out.

Unlike the DTA, the IEA recently signed with the United States focuses exclusively on facilitating the exchange of relevant tax information and collaborating in the collection of taxes, without addressing issues related to double taxation.

The agreement carefully regulates the exchange of information upon request, allowing both parties to request relevant data for tax purposes or, in case of tax crimes, provided that the information sought is foreseeably relevant. This agreement is not only limited to exchange upon request, but also considers the possibility of sharing information spontaneously and automatically, as well as carrying out inspections abroad under the supervision of the receiving country. This step reinforces the commitment of Uruguay and the United States to strengthen international cooperation and transparency in tax issues.

Double Taxation Agreement between Uruguay and Brazil

The DTA between Uruguay and Brazil, in force since July 21, 2023, and ratified by Uruguay in December 2021 and by Brazil in June 2023, is a milestone in bilateral tax relations. This agreement, developed over years of negotiations and in line with OECD international standards, addresses various measures applicable to operations between both countries.

The DTA sets the bases for the taxation of Income and Wealth Taxes, including specific provisions for business profits, dividends, interest, royalties, fees for technical services, and independent personal services. In addition, it defines criteria to eliminate double taxation through the tax credit system and sets conditions for the right to DTA benefits avoiding potential tax abuses.

With this DTA, Uruguay manages to complete its network of tax agreements with important trade associates in the region: Argentina, Paraguay, Brazil, and Chile.

Both milestones reinforce transparency and promote fair taxation, consolidating Uruguay as a reliable associate in the international arena.

Mazars in Latin America

Our presence



Valid as of 1 January 2024

9

Countries and territories

2,000+

Professionals

70

Partners

20+

Offices

Argentina

Brasil

Chile

Colombia

Mexico

Panama

Peru

Uruguay

Venezuela

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