Americas tax policy update

Q1 2020

Country

Argentina

- The Argentine Government implemented emergency measures on tax, social security, customs and labor issues to mitigate the economic impact of the COVID-19 pandemic. Specifically, the tax authority suspended the time limits for responding to the federal tax, social security and customs authorities on certain issues (e.g., time to submit documents related to a tax audit) from 18 March to 31 March 2020; this measure does not include the extension of regular due dates previously established for tax return filings and payments. For more information, see Tax Alert 2020-0676.
- Argentina's tax authority published General Resolution 4659/2020, which contains regulations to implement Argentina's new tax on certain transactions involving the acquisition of foreign currency. The tax was enacted as part of Argentina’s tax reform and will apply for five years beginning 23 December 2019. The General Resolution provides rules on collection agents, timing and procedures to remit the tax payments. For more information, see Tax Alert 2020-0066.
- The Argentine Executive Power sent a bill to the House of Representatives proposing changes to the promotional regime for the knowledge-based economy, which is currently suspended. The bill would impose new requirements on companies that want to participate in the regime. For more information, see Tax Alert 2020-0445.
- The Central Bank of Argentina issued Communique A 6,869, which allows access to the foreign exchange market without prior authorization for payments of dividends and profits to nonresidents (i.e., companies can buy US dollars to wire to foreign beneficiaries) up to an amount equal to 30% of new capital contributions if certain conditions are met (among them, new capital contributions must have been settled through the foreign exchange market (i.e., the proceeds from the contributions are converted into Argentine pesos)). In all other cases, companies must receive prior authorization from the Central Bank of Argentina before distributing dividends and profits to nonresidents. For more information, see Tax Alert 2020-0228.
- An Argentine federal court recently affirmed a precautionary measure (i.e., a provisional ruling similar to an injunction), allowing a taxpayer to deduct the entire negative adjustment for inflation in the tax year to which it corresponded, instead of allocating it over three tax years as provided by the income tax law. Laws 27,430 and 27,468 established an integral inflation adjustment mechanism that is triggered when the variation of the Consumer Price Index (in Spanish, Índice de Precios al Consumidor nivel general or IPC) supplied by the National Institute of Statistics and Censuses (in Spanish, Instituto Nacional de Estadística y Censos or INDEC), exceeds certain thresholds. For tax years beginning on or after 1 January 2018 and on or before 31 December 2018, taxpayers must allocate one-third of any resulting negative or positive inflation adjustment to the tax year to which it corresponds, and the remaining two-thirds, in equal parts, to the following two tax years. For tax years 2019 and 2020, the inflation adjustment factor must be allocated equally over six years. Because some taxpayers may be negatively affected by the requirement to spread the inflation adjustment over a certain number of years, courts will be considering whether that requirement is constitutional. For more information, see Tax Alert 2020-0433.

Brazil

- The Brazilian Minister of Economy presented proposals to counter the economic slowdown due to the coronavirus spread. The next step is for Congress to analyze and debate the proposals. Tax-related items are mainly focused on helping small businesses and reducing the tax burden on local acquisitions and imports of products necessary to counter COVID-19. The proposals also included simplification and acceleration of the customs clearance process and licensing of certain products. Other proposed measures include postponing deadlines related to collection assessments for 90 days and allowing taxpayers to join a debt program (known as REGULARIZE).
- As reported in the previous Americas Tax Policy Update, the Ministry of Economy, the President of the Senate and the President of the Chamber of Deputies created a tax reform commission made up of senators and deputies to prepare a consolidated text for a tax reform. The Executive branch also plans to submit suggestions to the commission. The first hearing was on 4 March 2020. The consolidated text will be based on the two existing tax reform proposals (i.e., the Senate's Bill 110/2019 and the Chamber of Deputies' Bill 45/2019). The President of the Commission, Senator Roberto Rocha, expects to present the consolidated text within 45 days.
- During the first quarter, Sweden ratified the amending protocol to the Brazil-Sweden Income Tax Treaty, and the United Arab Emirates ratified the income tax treaty signed with Brazil in 2018. Further, the Brazilian Chamber of Deputies approved the treaties between Brazil and the United Arab Emirates, Switzerland and Singapore. The treaties have been sent to the Senate for further approval. Finally, the Dutch Government announced negotiations to revise the Brazil - Netherlands Income Tax Treaty will continue this year. Further developments will be monitored.

Canada

- On 18 March 2020, in response to the COVID-19 pandemic, the federal government announced its $82 billion *Economic Response Plan: Support for Canadians and Businesses*. The plan outlines a new set of economic measures, including $55 billion in tax flexibility measures and $27 billion in direct support to Canadian workers and businesses affected by the current situation. See Tax Alert 2020-0589.
- As part of a unanimous motion adjourning the House of Commons over growing concerns about spreading the COVID-19 virus, Bill C-4, the *Canada-United States-Mexico Agreement Implementation Act* (CUSMA), was adopted in the House, passed without amendment in the Senate and received Royal Assent all on the same day, 13 March 2020. As per the terms of the Agreement, the CUSMA will come into force on the first day of the third month following the last notification of ratification by all the parties. Canada was the third and final party to ratify the agreement. For more information, see Tax Alert 2020-0560.
- The Selected Listed Financial Institution (SLFI) return for 2019 must be filed by 30 June 2020. The SLFI rules were extended to investment limited partnerships (ILPs) effective 1 January 2019. These rules aim to put ILPs on the same playing field as other investment structures such as mutual funds, which pay the goods and services tax (GST)/harmonized sales tax (HST) and Quebec sales tax (QST) at a rate determined in accordance with the residency of their investors. An ILP is therefore required to determine its net tax liability/refund pursuant to the special attribution method (SAM) formula. The SAM formula includes the provincial attribution percentage calculation, which, in the case of an ILP, is determined on the basis of the residency of the unitholders. An ILP that qualifies as an SLFI must report the resulting GST/HST and QST net tax liability/refund using the SLFI return. For more information, see Tax Alert 2020-0338.
- During the first quarter of 2020, a number of provinces and territories tabled their 2020-21 budgets:
  - British Columbia tabled its fiscal 2020-21 budget on 18 February. The budget contains several tax measures affecting individuals, but no tax rate changes for corporations. See Tax Alert 2020-0400.
  - Nunavut tabled its fiscal 2020-21 budget on 19 February. The budget contains no new taxes and no tax increases. See Tax Alert 2020-0408.
  - Nova Scotia tabled its fiscal 2020-21 budget on 25 February. The budget contains several tax measures affecting individuals and corporations. See Tax Alert 2020-0434.
  - Northwest Territories tabled its fiscal 2020-21 budget on 25 February. The budget contains no new taxes and no tax increases. See Tax Alert 2020-0435.
  - Alberta tabled its fiscal 2020-21 budget on 27 February 2020. The budget does not include any changes to personal or business income tax rates. Several other tax measures were announced, including a 20% tax on the retail sales price of vaping products, with an implementation date to be announced when the legislation is introduced in spring 2020. See Tax Alert 2020-0461.
  - Yukon tabled its fiscal 2020–21 budget on 5 March 2020. The budget contains no changes in personal income tax rates. Effective 1 January 2021, the Yukon small-business corporate income tax rates will be lowered from 2% (or 1.5% on manufacturing and processing profits) to 0%. Starting in 2020, the small-business investment tax credit will be expanded to medium-sized businesses and will accordingly be renamed the "business investment tax credit." See Tax Alert 2020-0517.
  - Quebec tabled its fiscal 2020-21 budget on 10 March 2020. The budget contains no changes in personal or corporate income tax rates. However, it does contain a significant number of new or amended tax measures affecting businesses. For details, see Tax Alert 2020-0532. For details specifically on proposed corporate transparency rules, see Tax Alert 2020-0582.
  - New Brunswick tabled its fiscal 2020-21 budget on 10 March 2020. The budget contains no changes in personal or corporate income tax rates. The budget also proposes certain changes to property tax rates and to the New

Brunswick Government's carbon pricing plan. See Tax Alert 2020-0533.

- Manitoba tabled its fiscal 2020–21 budget on 19 March 2020. The budget does not contain any changes to personal or business tax rates but does contain a number of other tax changes. See Tax Alert 2020-0619.

Chile

- In response to the COVID-19 outbreak, an economic incentives package was proposed to provide funds and support to small/medium-sized businesses. The package would cost US $11.75 billion, equivalent to 4.7% of Chilean GDP. The bill is intended to benefit the health system, protect the income of families and offer employment protections. The package would exempt credit operations (e.g., loans and credit card transactions) carried out within the next six months from stamp taxes. It also would allow taxpayers to defer value-added tax (VAT) payments for the next three months. The package also would defer the filing of real estate tax returns and corporate income tax pre-payments for three months. These provisions are only available to small-sales-volume companies.
- On 24 February 2020, Chile enacted a tax reform bill that makes the "semi-integrated" tax regime mandatory for dividend distributions from large Chilean companies to their non-Chilean shareholders. The "semi-integrated" regime consists of an overall 44.45% withholding rate applicable to dividend distributions from Chilean companies to their non-Chilean shareholders. A 35% rate applies if the non-Chilean shareholders are resident in a country to which a double tax treaty (DTT) applies (even if the DTT is signed but not in effect yet, the 35% rate will still apply, but only until 2026). The tax reform also expands the types of expenses a Chilean company may deduct from its corporate taxable income, defines permanent establishment and makes significant changes to the VAT for non-Chilean companies, among other things. The tax reform went into effect on 1 March 2020, but it retroactively applies to all operations carried out beginning 1 January, except for certain operations that have delayed effective dates. For more information, see Tax Alerts 2020-0271 and 2020-0293.

Colombia

- In response to the COVID-19 outbreak, the Colombian Government issued some tax measures to ease the burden on taxpayers during this crisis. For large taxpayers, tax returns and second installment payments are due from 21 April to 5 May 2020 (previously due from 14 April to 27 April 2020), depending on the last digit of the taxpayer's identification number. For financial institutions that are large taxpayers, the first installment of the income surtax is due from 21 April to 5 May 2020 (previously due from 14 April to 27 April 2020), depending on the last digit of the taxpayer's identification number. For standard legal entities, tax returns and the first installment payment are due from 21 April to 19 May 2020 (previously due from 14 April to 10 May 2020), depending on the last two digits of the taxpayer's identification number. For more information, see Tax Alert 2020-0682.
- On 29 February 2020, the Colombian Ministry of Finance issued Decree 286. This decree provides guidance on obtaining benefits for performing Orange Economy activities, as outlined by Law 1943 of 2018 and Law 2010 of 2019. Orange Economy activities are certain entrepreneurial, creative and technological activities. Since 1 January 2019, income generated by performing these activities is exempt from corporate income tax for seven years after the Ministry of Culture's Committee of Orange Economy grants a taxpayer the exemption. The exemption, however, only applies to taxpayers with yearly gross income under approximately US $860,000.
- The Colombian Ministry of Finance issued Decree 096 (28 February 2020), which provides guidance on the VAT refund granted to builders of social-interest real estate and priority-interest real estate (i.e., low-income housing) (known as *Vivienda de Interés Social* and *Vivienda de Interés Social Prioritaria*). This refund equals 4% of the value registered in the sales public deed and is only applicable when the value of the real estate is under approximately US $36,000.
- On 17 February 2020, the tax authorities issued Official Tax Opinion 3283, which addresses the application of the most-favored nation clause (MFN) included in each of the double tax treaties (DTTs) signed by Colombia. This opinion indicates that the MFN in some DTTs signed by Colombia was triggered when the DTT between Colombia and the United Kingdom entered into force. The DTT with the UK does not include technical assistance, technical services and consultancy services under the definition of royalties (Article 12), which may be taxed by the source State. In comparison, most DTTs signed by Colombia consider payments for technical services, technical assistance services and consulting services as royalties, subject to 10% withholding tax (WHT). However, the application of the MFN may further reduce the applicable WHT to 0% effective 1 January 2020. For more information, see Tax Alert 2020-0495.

Costa Rica

- Costa Rica enacted legislation (see Tax Alert 2020-0712), aimed at mitigating the tax and economic impact caused by the spread of COVID-19. Specifically, the law:
  - Defers the payment of the VAT for April, May and June 2020 until 31 December 2020
  - Allows taxpayers to not make advance payments of income tax that are due in April, May or June 2020
  - Allows taxpayers that are registered as taxpayers with the Tax Registry to defer the payment of the consumption tax to 31 December 2020
  - Allows importers registered as taxpayers in the Tax Registry to enter imported goods into the national market in April, May and June 2020, without the imposition of duties
- Costa Rica issued Directive DGA-003-2020, which controls the export and re-export of medical supplies needed to fight the COVID-19 pandemic. For more information, see Tax Alert 2020-0623.
- Costa Rica enacted Law No. 9810 (the Law), establishing a three-month moratorium on the full imposition of penalties for failing to file the annual return for 2019 with the Registry of

Transparency and Final Beneficiaries (the Registry). During the moratorium, the tax authorities will not impose penalties for two months for failing to comply with the annual return filing requirement. If the return is filed during the third month of the moratorium, the tax authorities will impose a penalty equal to 50% of the penalty that would normally apply under Law 9416. The Law went into effect 30 January 2020 and the moratorium began as of that date. For more information, see Tax Alert 2020-0299.

- The Double Tax Treaty between Mexico and Costa Rica, which entered into force in 2019, applies to withholding taxes as of 1 January 2020. For more information, see Tax Alert 2020-0179.
- Costa Rica's tax authorities published an updated list of non-cooperative jurisdictions. Expenses related to operations, transactions or entities domiciled in those jurisdictions are generally not deductible. Taxpayers that carry out operations and transactions in those jurisdictions must record them appropriately to determine the deductibility of related expenses. For more information, see Tax Alert 2020-0315.

Dominican Republic

- To support the different economic sectors during the COVID-19 pandemic, the Dominican tax authorities established the following measures:
  - Reducing the installment payments due on payment agreements with the tax authorities by 50%
  - Extending from 30 March 2020 to 30 April 2020 the due date for filing the annual individual income tax return for tax year 2019 and extending from 20 March 2020 to 30 April 2020 the income tax return for taxpayers covered by the simplified tax regime
  - Closing the tax authorities' offices and reducing work hours
  - Allowing VAT and excise tax exemption requests from taxpayers covered by special regimes and requests for registration of taxpayers on the National Taxpayer Registry (RNC, for its initials in Spanish) via the tax authorities' online virtual office
  - Extending due dates for the filing and payment of the taxes related to winnings from the lottery, sports betting agencies, casino games and slot machines
  - Extending the due date for filing the corporate income tax (CIT) return and making the CIT payment from 29 April 2020 to 29 May 2020 for entities with tax periods ending on 31 December and allowing taxpayers to enter into payment agreements to pay the CIT in four installments
  - Suspending installment payments ending in April, May and June 2020 that are part of Advance Pricing Agreements for the hotel sector for three months
  - Extending the due date for filing the VAT return and paying the VAT for the February 2020 tax period from 20 March 2020 to 30 March 2020 and allowing taxpayers to enter into payment agreements to pay the VAT in four installments
  - Extending the due date for filing the *Informative Declaration of Operations with Related Parties* for entities with tax years ending on 30 September from 30 March 2020 to 30 April 2020
  - Exempting income tax prepayments for the month of March 2020 for all taxpayers, except large taxpayers (with some exceptions)
- In light of COVID-19, the Customs Administration (1) eliminated the surcharge for late declarations and (2) extended the time applicable goods may remain a part of the Deposit Regime for up to three business days after the lifting of the national emergency. The Customs Administration will not count the days within the period of the state of emergency when determining when merchandise is considered abandoned.
- Through Decree 137-20, dated 24 March 2020, the Government suspended the deadlines for administrative procedures entered into with various Government agencies, while the state of emergency is in effect.
- The Dominican tax authorities issued General Ruling 01-20, which regulates the issuance and use of electronic tax receipts in the electronic invoicing process. Specifically, the ruling establishes the billing model for electronic tax invoices. Electronic invoicing began as part of a pilot program in 2019 that allowed many taxpayers in the Dominican Republic to participate.
- On 19 February 2020, the Dominican Republic enacted Law No. 46-20 of Transparency and Asset Revaluation, which establishes a voluntary disclosure program for taxpayers that did not previously report certain assets to voluntarily report those assets or revaluate assets previously reported, including cash in bank accounts or financial institutions, investment titles, real estate, movable property and inventory. The program offers a special reduced tax rate of 2% on the value of the declared assets or the amount of the revaluated assets. The Law also establishes a tax amnesty program for all existing tax liabilities, regardless of the type of tax, their origin or whether the liabilities are subject to administrative or judicial appeals. Taxpayers that participate in the tax amnesty will be allowed to pay the amount of the outstanding tax liability and only one year of interest. They will not have to pay any other interest or surcharges. The Dominican tax authorities have drafted a general ruling that, once issued, will regulate the compliance mechanisms, accounting treatment and other relevant procedures and conditions for taxpayers that want to apply for the tax amnesty or voluntary disclosure program. For more information, see Tax Alert 2020-0427.
- The Dominican tax authorities published an updated list of countries that are not considered as tax havens or preferential tax regimes. Tax residents in the Dominican Republic that carry out operations with persons in these states will only be subject to transfer pricing regulations when they are considered related parties.

Ecuador

- The Government instituted several measures to help mitigate the economic impact of COVID-19. Specifically:
  - Small businesses and companies that are airlines or are in the tourism or agriculture industry may defer income tax and VAT payments for six months. This provision also

applies to exporters of goods.

  - Financial institutions and telecommunications companies must withhold 1.75% of their total income and pay it to the Ecuadorian tax authority.
  - Companies with a public contract for exploration and exploitation of oil and gas and oil transportation must withhold 1.5% of their total income and pay it to the tax authorities.
- The Double Tax Treaty between Ecuador and Japan, ratified by Ecuador in 2019, was published in the Official Gazette on 30 January 2020, and now applies from 1 January 2020. For more information on the treaty, see Tax Alerts 2019-2123 and 2020-0277.

El Salvador

- On 20 March 2020, Congress approved Legislative Decree 598, extending the due date for the payment of income tax for tax year 2019. Although the due date for the payments has been extended, taxpayers must file the income tax return no later than 30 April 2020. The tax authorities will not impose interest, surcharges or penalties if the taxes are paid by the extended due dates. The payment due date is extended for the following taxpayers:
  - Small taxpayers that have to pay income tax equal to or less than US $10,000 may enter into an installment payment plan with the General Treasury Directorate to pay the income tax due in up to eight monthly installments. Small taxpayers would have to pay 10% of the income tax due in the first installment in May 2020.
  - Taxpayers in the tourism industry that have to pay income tax equal to or less than US $25,000 may make the payment on or before 31 May 2020. The extension is not applicable to taxpayers that have valid tax incentives granted under the Tourism Law.
  - The payment of the special tax on tourism has been suspended for three months, beginning on 24 March 2020.
  - Taxpayers that generate, transmit, distribute and sell electric power may pay the income tax due in up to eight monthly installments by entering into an installment payment plan with the General Treasury Directorate. The first installment would be due in May 2020 and would consist of 10% of the income tax due.
  - Taxpayers that render at least two of the following services: cable TV, internet and fixed or mobile telephony, may pay the income tax due in up to in eight monthly installments by entering into an installment payment plan with the General Treasury Directorate. Those taxpayers would have to pay the first installment in May 2020, which would consist of 10% of the income tax due.
- The decree also extended the estimated income tax payment due date for taxpayers that render at least two of the following services: cable TV, internet and fixed or mobile telephony. Those taxpayers may make the estimated tax payment for March, April and May 2020, in up to six monthly installments. The first installment is due in July 2020 and must be equal to 10% of the amount determined. Taxpayers must file the return related to the estimated tax payment within 10 business days of the tax period closing.
- On 9 January 2020, Congress approved Legislative Decree No. 541, which modifies Section 15 of the Law of Creation of the Unit of the Social Registry of Estate. The modifications require a valid municipal tax clearance certificate to register any operation or act related to real estate projects that directly or indirectly benefit low-income families. The decree entered into force on 5 February 2020.
- Congress approved Legislative Decree No. 542, which amends Section 100 of the Municipal Code by requiring a valid municipal tax clearance certificate to register any act or operation related to the transfer or encumbrance of real estate. The amendments also require a valid municipal tax clearance certificate to register any incorporation, modification or dissolution of companies. The decree entered into force on 5 February 2020.
- The tax administration announced that it will start a pilot program to implement electronic invoicing in El Salvador. A group of 100 companies from different sectors will participate in the program. The pilot program is expected to start in June 2020. The implementation of electronic invoicing is aimed at modernizing and strengthening the economy through electronic commerce.

Guatemala

- In Ruling No. SAT-DSI-280-2020 (issued 24 March 2020) (see Tax Alert 2020-0729), the Guatemalan tax authorities declared 24 March 2020 to 14 April 2020 as non-working days for the tax authorities. Because of the non-working days, the tax authorities extended the deadlines for filing returns and making payments as follows:
  - The due date for filing the annual income tax return and transfer pricing annex is extended from 31 March to 15 April.
  - The due date for filing the February VAT return is extended from 31 March to 15 April.
  - The due date for filing the income tax withholding return is extended from 16 April to 28 April.
  - The due date for filing the March VAT withholding tax return is extended from 23 April to 5 May.
  - The due date for submitting reports required by law is extended to 15 April.
  - Existing or new audit processes are suspended during the established period and will resume on 15 April.
  - The deadline for responding to information requests or submitting administrative appeals to the tax authorities is suspended; taxpayers may begin responding to requests and submitting administrative appeals beginning 15 April.
- Taxpayers subject to the solidarity tax (i.e., a 1% tax on the profits from business activities of taxpayers registered under the income tax regime) may defer the tax payment for the second quarter of 2020. They must pay the tax by 30 September 2020. No penalties, fines, or surcharges will be imposed.

- While the state of public calamity and its measures are in force, all imports received as donations for the National Coordination for Disaster Reduction of Guatemala, churches, organizations and charitable associations duly authorized and registered in the Registry of Legal Entities of the Ministry of Governance will be exempt from VAT and customs duties.
- Deadlines related to public entities' administrative processes are suspended for three months and may not be extended, except for deadlines related to constitutional issues and those related to the law for access to public information, food processes, and minimum guarantees, among others. For more information, see Tax Alert 2020-0818.
- On 23 March 2020, the Workers' Recreation Institute, the Technical Institute for Training and Productivity and the Guatemalan Social Security Institute granted private-sector employers a suspension for the payment of quotas during March, April and May, allowing the payments to be deferred to the second half of 2020.
- The Guatemalan Government published Decree 2-2020, which allows airlines engaged in international transport services to deduct costs and expenses generated by the parent entity resident outside of the Guatemalan territory that are necessary to provide transport services in Guatemala. The decree includes a formula for determining the deduction. The decree will be effective 1 January 2021. For more information, see Tax Alert 2020-0413.
- On 25 February 2020, the Guatemalan Congress approved Decree 6-2020, which incorporates certain reforms into the Code of Commerce. Under the reforms, a check submitted through a clearinghouse will be effective regardless of whether it is submitted physically or digitally. Additionally, a protest against checks may be submitted physically or digitally. A protest against checks is a mechanism that allows a person to document or record that the bank did not pay the check submitted for collection due to the issuer's lack of funds or other similar circumstances. The digital copy of a check with proof that it is a true copy will have the same legal validity and evidential force as physical checks. These rules are relevant for tax purposes because digital checks should also be valid to satisfy "bancarisation" requirements. The bancarisation rule provides that all transactions over GTQ 30,000 must be conducted through banking means as evidence that taxes or VAT credits were derived from the transactions. Therefore, the digital checks should be considered as a valid banking mechanism to demonstrate that taxes that originated from transactions over GTQ 30,000 were duly generated. This decree has not entered into force since it is still awaiting the Guatemalan president's signature. Once signed by the president, it will be published in the Official Gazette.
- The Guatemalan Congress discussed Bill No. 5691, which would grant tax incentives to companies that do not yet have a presence in Guatemala with the aim of attracting investment. Specifically, the bill would establish a 100-year exemption from income tax, solidarity tax, VAT and customs duties on imports of all raw materials and machinery needed for a company to initiate operations upon its incorporation. The bill also would authorize the Ministry of Economy to issue regulations to establish all administrative and registration rules. Because this bill is still under discussion in the Guatemalan Congress, changes could be made to the bill's provisions.

Honduras

- The Government repealed the tax amnesty program on 28 February 2020.

Mexico

- The Mexican tax authorities stated that they will not grant any extensions for filing annual tax returns and issued a press release requesting that taxpayers comply in a timely manner with the filing of their FY2019 tax returns.
- The Mexican Supreme Court, Circuit Courts and judges, as well as the Tax Court have suspended activities until 20 April 2020 to mitigate the spread of COVID-19. During this period, all legal deadlines are suspended.
- Several states have issued extensions for filing local tax returns and paying local taxes because of COVID-19.
- The tax authorities issued temporary regulations that implement various provisions of the recently enacted tax reform, including new Title 12 on the rendering of digital services. Title 12 establishes new tax obligations for digital service providers, including nonresident providers that otherwise do not have a taxable presence in Mexico. Specifically, the regulations require digital service providers to register with the taxpayer registry and to issue, upon request, invoices to Mexican service recipients that separately state the value of the services and the VAT. For more information, see Tax Alert 2020-0196.

Nicaragua

- No tax policy developments are available for this quarter.

Panama

- The Panamanian Government issued Executive Decree No. 251 of 2020 to establish tax measures to mitigate the economic impact of COVID-19. Specifically, the decree:
  - Extends the due date for payments of direct and indirect taxes due during the national state of emergency to 17 July 2020 without the imposition of interest, surcharges and penalties
  - Extends the due date for filing the income tax return for tax year 2019 until 30 May 2020
  - Establishes that taxpayers may file their estimated income tax return for 2020, indicating that their income will be 70% of the income tax reported for 2019 without being subject to investigation by the tax authorities.
  - Establishes that the due dates for estimated income tax payments due for 2020 are 30 September and 31 December 2020
  - Establishes that the due date for payments subject to payment arrangements is extended to 31 December 2020
  - Extends the income tax exemption for micro, small and medium-sized enterprises for another year
- Law 122 of 2019, enacted on 2 January 2020, grants tax

incentives to promote investment in tourism projects located outside the district of Panama. The tax incentives include a 100% tax credit for income tax purposes applicable to individuals or entities that acquire shares in, or acquire any other financial instrument issued by, a tourism company.

- Panama enacted Law 124 of 2020 to create the Superintendency of Non-Financial Subjects and establish its leadership, functions and organizational structure. The main objective of the Superintendency is to supervise and regulate non-financial subjects in accordance with the provisions of Law 23 of 2015, which established measures for the prevention of money laundering, terrorism financing and financing of the proliferation of weapons of mass destruction. The law also establishes a list of the entities and individuals that would be considered non-financial subjects, such as construction companies, entities established in tax-free zones, lawyers, authorized public accountants and public notaries.
- Panama enacted Law 129 to create a private registration system for ultimate beneficial owners of legal entities. The Superintendency of Non-Financial Subjects will manage the registration system, which is intended to prevent money laundering crimes, the financing of terrorism and financing of the proliferation of weapons of mass destruction. The system will facilitate access to information on ultimate beneficial owners of entities, collected by lawyers or law firms that provide services as resident agents for such entities. For more information, see Tax Alert 2020-0793.
- The Panamanian Government issued Executive Decree No. 114 of 2020 to establish provisions for the use of fiscal equipment (i.e., devices that collect tax data to submit to the General Directorate of Revenue (DGI for its Spanish acronym)) in the issuance of fiscal invoices and other documents. The decree applies to all individuals and entities that carry out commercial, industrial, professional or similar activities and requires them to use fiscal equipment to issue invoices to document their operations. The decree establishes the specifications that the fiscal equipment must meet to allow taxpayers that use the equipment to fulfill their tax obligations.
- The Panamanian Government issued Executive Decree No. 115 of 2020 to establish the regulatory framework for the issuance and use of electronic invoices applicable to companies exempt from the use of fiscal equipment. The Decree also establishes that the DGI will determine the groups of taxpayers that, due to the nature of their operations or billing volume, could use electronic invoices instead of fiscal equipment. The Decree establishes that electronic invoices would be as valid as invoices issued by fiscal equipment.
- Panama was included in the revised EU list of non-cooperative jurisdictions for tax purposes, which the Council of the European Union (the Council) adopted on 18 February 2020. Although Panama has been included on the list, there are no immediate consequences for Panama. However, because Panama is on the list, EU Member States could include Panama on their lists of non-cooperative jurisdictions and may apply defensive measures. For more information, see Tax Alert 2020-0398.

Paraguay

- No tax policy developments available for this quarter.

Peru

- Peru declared a National State of Emergency for 15 days from 16 March 2020 to 30 March 2020 due to COVID-19 spread. As a result of the declaration, all deadlines for tax procedures initiated before 15 March 2020 are suspended for 30 business days, beginning 16 March 2020. Additionally, imports of certain medicines, medical equipment and devices are exempt from customs duties for 90 calendar days beginning 12 March 2020 (the rate will go back to 6% at the end of the 90-day period). For installment payment plans approved by the Peruvian tax authority before 15 March 2020, taxpayers may pay the March installments in April without the imposition of penalties. Taxpayers that obtained income of up to 2,300 Tax Units (approx. US $2,841,176) during tax year 2019 may postpone the filing of the following items:
  - The monthly income tax return due in March for February 2020 until early April 2020
  - The filing of the electronic sales register, the electronic income register and the electronic purchase register due in March for February 2020 until early April 2020
  - The annual return of operations with third parties due in March until 7 April 2020
  - The filing of the 2019 annual income tax return and corresponding payment due in March or early April until June and July 2020
- The exact due dates for these filings depend on the last digit of the taxpayer's tax identification number. For more information, see Tax Alert 2020-0664.
- The Peruvian tax authority published Resolution 059-2020 (the Resolution), establishing the procedure taxpayers interested in claiming the indirect foreign tax credit must follow to communicate certain information to the tax authority. The Resolution is effective 21 March 2020. For more information, see Tax Alert 2020-0716.
- Peru 's Minister of Economics issued Supreme Decree 410-2019-EF, which amends the rules for the tax exemption applicable to capital gains derived from transfers of securities carried out through the Lima Stock Exchange. Specifically, the Supreme Decree modifies the parameters to determine when the securities comply with the "liquidity threshold." The Supreme Decree is effective 1 January 2020. For more information, see Tax Alert 2020-0042.
- The Peruvian tax authority has published on its webpage a list of high-risk schemes for the application of the general anti-avoidance rules. The schemes include: (i) the deduction of royalties from trademark assignments; (ii) re-domiciliation of companies to benefit from double taxation treaties; (iii) Peruvian company purchases through a trust to avoid capital gains taxation; and (iv) trademark assignments with a “debt capitalization.” (See:http://orientacion.sunat.gob.pe/images/norma-antielusiva-general/Esquemas_Alto_Riesgo_2020.pdf).

Puerto Rico

- In response to COVID-19, the Puerto Rico Treasury Department (PRTD) extended due dates for various returns, including sales and use tax (SUT) returns and payments. Taxpayers with income tax returns with an original or extended due date of 15 March 2020 (previously extended to 15 April 2020) have until 15 June 2020 to file those returns. For returns with original or extended due dates of 15 April 2020 (previously extended to 15 May 2020), the due date is extended to 15 July 2020. Payments due with these returns are also extended to the new due dates. The 15 July 2020 due date also applies to returns due on 15 May or 15 June 2020. With respect to SUT returns, the due date for the monthly SUT return due for March 2020 is extended from 20 April 2020 to 20 May 2020. The due date for the return due for April is extended from 20 May 2020 to 22 June 2020, and the due date for the return due for May is extended from 22 June 2020 to 20 July 2020. The PRTD also extended due dates for other tax filings and payments. For more information on the extended due dates, see Tax Alert 2020-0770.
- The PRTD issued Circular Letters 20-08 and 20-22, indicating that employers may make qualified disaster assistance payments and loans to employees and independent contractors as a result of the COVID-19 health crisis and earthquakes that took place in January. To be exempt from income tax, the qualified disaster assistance payments must be made from 1 February 2020 to 30 April 2020 (Eligible Period), and other conditions must be met. Employers that offer no-interest loans to employees and independent contractors to help them cover expenses will not have to recognize income from the loans, provided the loans are authorized during the Eligible Period and do not exceed $20,000.
- In Circular Letters 20-09 and 20-23, the PRTD announced costs incurred as a result of COVID-19 and the earthquakes in January are eligible expenses for purposes of special disaster-related distributions from qualified retirement plans and individual retirement accounts (IRAs). Payments or distributions in cash from a retirement plan or IRA from 20 February 2020 to 30 June 2020 that are requested by an eligible individual to cover eligible expenses, as defined in Section 1081.01(b)(1)(D)(vi)(II) of the Puerto Rico Internal Revenue Code of 2011 (PR Code), as amended, will qualify as special distributions. The special distributions will be subject to tax under Sections 1081.01(b)(1)(D) and 1081.02(d)(1)(J) of the PR Code. A 10% withholding rate will apply to amounts exceeding $10,000; however, any amount in excess of $100,000 is subject to the regular rates and any other applicable penalty. If the 10% is not withheld at source when the distribution is made, the distribution will be treated as taxable income for the eligible individual and subject to the regular tax rates established in the PR Code.
- The Puerto Rico Department of Economic Development and Commerce (DDEC for its Spanish acronym) issued Administrative Order 2020-005, establishing a $1,500 incentive for small and medium-sized businesses affected by COVID-19. The PRTD also issued Circular Letter 20-21, establishing a $500 incentive for self-employed individuals affected by COVID-19. These incentives may be available at the same time for eligible businesses but are not to exceed the maximum benefit amount of $1,500. Special rules and conditions apply. The incentives must be requested online through the DDEC and PRTD websites.
- The PRTD issued Administrative Determination 20-10 to provide various measures aimed at improving cash flow for taxpayers and merchants. Among the measures, withholding agents are not required to do the 10% income tax withholding at source on payments for services performed from 23 March 2020 to 30 June 2020. Taxpayers may request that income tax refunds, and any accumulated and unused credits for the SUT paid on imports of taxable items for resale, be credited against other tax liabilities, such as employer payroll, income and sales taxes. There is no obligation to pay SUT on the import or purchase of taxable goods for resale from 6 April 2020 to 30 June 2020 by merchants with a reseller certificate.

United States

- The United States has so far enacted three pieces of legislation in response to the COVID-19 pandemic, the largest being the $2.2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act on 27 March. See Tax Alerts 2020-0708 and 2020-9011. Among the provisions enacted so far:
  - Deferrals of employer payroll tax liabilities coupled with an employee retention tax credit
  - A tax credit for employers that are required to provide paid sick leave related to COVID-19 under relief legislation enacted 18 March. Employers subject to these new requirements – generally private employers with fewer than 500 employees – can receive a 100% refundable payroll tax credit on the wages they have to pay and on additional health benefit contributions. See Tax Alert 2020-0586.
  - Rollbacks of the IRC Section 163(j) business interest limitation and limitations on net operating losses that were enacted as part of the Tax Cuts and Jobs Act (TCJA)
  - Business loans and expanded unemployment insurance
  - Direct payments to taxpayers with middle-income wages and below
  - New appropriations funding for health care and other priorities
- The Treasury Department and IRS announced delays from 15 April to 15 July for federal income tax filing and payments (see Notice 2020-18).

- The field for the upcoming November presidential election has narrowed, with Democratic primary contests continuing and support consolidating around former Vice President Joseph Biden, a centrist. Democratic candidates had put forth policies to increase taxes on high-income taxpayers' accrued wealth and income, and possibly roll back some of the TCJA corporate tax reductions. It is unclear what effect the large-scale economic disruption of the COVID-19 pandemic will have on the tax policy proposals and the election overall.
- Prior to the COVID-19 situation, the US Treasury Department released the following significant regulations related to the TCJA:
  - Final regulations (TD 9889) on qualified Opportunity Zones (OZs). The final regulations address what types of gains may be invested and when, when gains may be excluded from tax, how qualified opportunity funds (QOFs) and qualified opportunity zone businesses can invest in OZs, how C corporations can invest in OZs, and new rules for QOF C corporations, among other topics. See Tax Alert 2020-0056.
  - Proposed regulations (REG-100814-19) clarifying deductions for IRC Section 274 entertainment and food and beverage expenses. The proposed regulations address the TCJA's elimination of the deduction for expenditures related to entertainment, amusement, and recreational activities and the limitation on the deduction for food and beverage expenses. See Tax Alert 2020-0442.
  - Proposed regulations (REG-100956-19) on the sourcing of income from sales of personal property (including inventory). The proposed regulations primarily address amended IRC Section 863(b), which sources income from the sale of inventory produced by a taxpayer based on the location of production activities with respect to the inventory. See Tax Alert 2020-0040.
- The US Treasury Department also issued the following regulations:
  - Final regulations (TD 9891) under IRC Section 721(c) that continue to deny nonrecognition treatment to certain contributions of appreciated property by US persons to partnerships with related foreign partners unless the partnership satisfies specific requirements. To avoid gain recognition, among other things, the partnership must adopt the remedial allocation method under IRC Section 704(c) and the consistent allocation method under the final regulations, in each case with respect to the transferred property. See Tax Alert 2020-0206.
  - Final regulations (TD 9890) under FATCA and chapter 3 of the IRC, finalizing some of the provisions included in the proposed regulations published in December 2018. See Tax Alert 2020-0117.
- Regarding trade, the situation remains fluid, with the following key developments occurring:
  - On 27 February 2020, the US Trade Representative met with his UK counterpart to discuss a US-UK free-trade agreement, with formal trade talks planned.
  - The "Phase One" US-China Trade Agreement took effect 14 February 2020. As part of the agreement, China announced 6 February that it would be cutting in half certain tariffs on roughly $75 billion worth of US imports. The US had earlier announced plans to halve its tariffs on $120 billion of products, from 15% to 7.5%. Trade analysts now question whether China can fulfill its pledged purchasing commitments, given the impact of the coronavirus outbreak.
  - On 14 February 2020, the US Trade Representative announced modifications to punitive tariffs on European Union-origin goods currently assessed under Section 301 of the *Trade Act of 1974* regarding the EU's subsidies provided to civil aircraft manufacturers. The revisions include an increase in the duty rate for aircraft from 10% to 15%, effective 18 March 2020, as well as the removal and addition of certain items, or rotation of items, subject to 25% punitive tariffs, effective 5 March 2020. See Tax Alert 2020-0395.
  - The US Government expanded its economic and trade sanctions against Iran on 10 January 2020. Concurrently, US President Donald Trump issued Executive Order (EO) 13902, authorizing the imposition of sanctions against additional sectors of the Iranian economy. These new sectors include the construction, mining, manufacturing, and textiles sectors. President Trump also announced that the US would impose punitive tariffs of 10% on derivative articles of aluminum and 25% on derivative articles of steel, under Section 232 of the *Trade Expansion Act of 1962*. The tariffs went into effect on 8 February 2020. See Tax Alerts 2020-0214 and 2020-0245.
  - The US-Japan Trade Agreement and US-Japan Digital Trade Agreement went into effect on 1 January 2020. The Trade Agreement will eliminate or reduce duty rates on agricultural and industrial goods and establish preferential quotas for US-specific goods. The Digital Trade Agreement will provide guidelines on priority areas of digital trade. See Tax Alert 2020-0086.

Uruguay

- The Uruguayan Director of Free Trade Zone Area issued a resolution to allow free trade zone (FTZ) workers to work remotely to stem the spread of COVID-19. FTZ workers are allowed to work remotely from 16 March 2020 to 10 April 2020. Under the resolution, companies may have their workers work remotely without losing those benefits. For more information, see Tax Alert 2020-0813.
- On 20 March 2020, the tax Authorities issued Resolution No. 550/020, granting taxpayers an extension of time to comply with their tax return filing and payment obligations, due to the COVID-19 health emergency.
- The Ministry of Economy and Finance established a special import regime for products declared essential by the Ministry of Public Health, to cover the health needs generated by COVID-19. The National Customs Directorate also established a special import regime for a list of products from abroad that are in high demand in Uruguay. Those products may be imported tax free.

- On 24 March 2020, the Executive Power submitted a bill to the General Assembly aimed at mitigating the economic effects of COVID-19 on small and medium-sized enterprises by providing significant tax benefits.
- On 6 February 2020, Uruguay deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) with the OECD's Secretary-General, Angel Gurría. It will enter into force for Uruguay on 1 June 2020. As of that date, the treaties that Uruguay has with the following countries will change to quickly implement the BEPS action plan: Belgium, Finland, India, Liechtenstein, Luxembourg, Malta, Singapore, United Arabic Emirates and United Kingdom. For more information, see Tax Alert [2020-0337](2020-0337).
- Uruguay's tax authorities updated and aligned the list of low- or no-taxation countries and jurisdictions with the transfer pricing (TP) list so that one list applies for TP and other tax purposes. For more information, see Tax Alert [2020-0247](2020-0247).
- On 28 February 2020, Uruguay's Executive Power issued a decree modifying Decree No. 150/2007, by adding a new article on corporate restructurings conducted through mergers or spin-offs. Under the new article, corporate income taxpayers may choose not to compute goodwill under certain circumstances. For more information, see Tax Alert [2020-0500](2020-0500).
- The Executive Power issued Decree No. 079/2020 (28 February 2020) regulating Law No. 19,784 for the promotion of industrial parks and technological science parks and introducing significant tax benefits for users and installers, such as a corporate income tax exemption for a percentage of "computable investments," a net wealth tax exemption on some goods and VAT credits.
- The Executive Power issued Decree No. 97/020, reducing the discount rate of the VAT on certain electronic payments.

Venezuela

- The National Tax Administration (SENIAT) has not issued measures on the extension or suspension of tax return filing and payment obligations. However, the Venezuelan Banking Superintendence suspended banking activities on 15 March 2020 because of the quarantine instituted by the Government as a result of the COVID-19 pandemic. Article 10 of the Venezuelan Master Tax Code allows the computation of tax obligations and penalties to be suspended during non-business banking days. Because banking activities are suspended, the SENIAT's activities also could be considered suspended. Additionally, with banking branches closed, taxpayers that do not have accounts in public banking institutions, which would allow wire transfers, are unable to make their tax payments. As a result, due to the pandemic, taxpayers might be able to argue that they are exempt from their tax responsibilities because of a "force majeure" cause.
- On 29 January 2020, Venezuela published a Constituent Decree, which contains a new Master Tax Code. The Master Tax Code includes the following provisions:
  - The Tax Unit is eliminated as a unit of measure for the imposition of sanctions (fines).
  - The tax administration will use the official exchange rate of the highest value currency published by the Central Bank of Venezuela as a parameter for the determination of fines.
  - The maximum amount of time the Executive Power may grant a full or partial tax exemption is reduced from five years to one year.
  - The creation of the General Decree on Exonerations of National Taxes is established. Any exoneration (i.e., exemption) that is not included in the decree will be void.
  - Government entities will have a term of one year from the publication of this Constituent Decree to replace Tax Units with another unit of measurement for the determination of labor benefits or rates and special contributions derived from the services they provide.
  - The Master Tax Code published in Official Extraordinary Gazette No. 6,152, dated 18 November 2014, and all legal provisions that conflict with the matters regulated by this Constituent Decree are repealed.
- The Constituent Decree entered into force within 30 days of its 29 January 2020 publication date in the Official Gazette.
- Venezuela published the Constituent Decree of Partial Reform of the Value-Added Tax Law in Official Extraordinary Gazette No. 6,507, dated 29 January 2020. The changes made by the decree include:
  - Modifying Article 27 to add an additional VAT rate ranging from 5% to 25% for (i) sales of movable property, (ii) the provision of services or (iii) sales of immovable property paid in foreign currency, cryptocurrency or crypto assets different from those issued and backed by Venezuela. The Executive branch will establish the VAT rate.
  - Article 62 is incorporated, which establishes that the Executive Branch shall establish the rate indicated in the third section of Article 27.
  - Article 68, now Article 69, is modified, adding the guidelines for issuing the invoice for those operations indicated in Article 62.
  - Article 71 is incorporated, establishing that the rate established in the third section of Article 27 will enter into force within 30 days following the publication in the Official Gazette of the Decree of the Executive Branch that establishes it.
- The National Superintendence of Cryptocurrency and Related Activities (SUNACRIP) issued an administrative order that establishes the parameters for individuals and entities required to keep accounting records in Venezuela to present financial information, a restatement of accounting records of operations and economic acts with cryptocurrencies to the SUNACRIP. Individuals and entities subject to this order must present their accounting records in sovereign cryptocurrency and legal tender. The order applies to tax years from 1 January 2020.

- In Official Gazette No. 41,800, dated 15 January 2020, Venezuela published a decree, establishing the obligation that commissions, surcharges and public prices that are currently requested to be paid in foreign currency must be paid in Petro (the digital currency issued by the Bolivarian Republic of Venezuela).

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