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Americas tax policy update

Q1 2021

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Argentina

- ▶ The Argentine Executive Power circulated a bill that it plans to send to Congress that would increase corporate income tax (CIT) rates for tax years beginning 1 January 2021 and onwards. The proposed bill would replace the current fixed tax rate of 25% with a progressive tax scale that could have a tax rate as high as 35%. The bill also would apply a 7% withholding tax to dividends from profits accrued in tax years beginning 1 January 2021 and thereafter. For more information, see Tax Alert [2021-0565](#).
- ▶ Argentina's Sub Secretary of the Knowledge-Based Economy published Disposition 11/2021 (Disposition 11), which contains the regulations with which companies must comply to register with the promotional regime for the knowledge-based economy, maintain their registration and access the regime's benefits. Disposition 11 requires companies to file all forms, and the Government to issue all notifications, through the Remote Procedures Platform (Trámites a Distancia, or TAD, in Spanish) approved by the Argentine Government. Eligible companies must register for the regime by completing and filing a form (not yet available) established by the Argentine federal tax authorities (AFIP). Subsequently, those companies will have to complete and file additional forms and affidavits through the TAD platform and attach the required documents to prove compliance with the required conditions to access the regime. For more information, see Tax Alerts [2020-2576](#), [2021-0018](#) and [2021-0401](#).
- ▶ Argentina enacted Law 27,613, which establishes a promotional regime for construction. The regime includes tax incentives for construction and a voluntary disclosure program that allows taxpayers to declare funds in local and foreign currency that were previously undeclared. The funds in local and foreign currency may be invested in the development of real estate projects in Argentina. For more information, see Tax Alert [2021-0612](#).
- ▶ The US Internal Revenue Service and the AFIP signed a competent authority agreement on Base Erosion and Profit Shifting (BEPS) Action 13. Once the agreement enters into force, Argentine entities will not have to file country-by-country reports if their ultimate parent entities in the United States filed the reports. Those Argentine entities will have to comply, however, with the General Resolution 4,130/2017 requirements. For more information, see Tax Alert [2021-0288](#).
- ▶ On 31 January 2021, Argentina notified the Qatar Government that it had completed the internal requirements for the entry into force of the Tax Treaty for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income and on Capital signed between Argentina and Qatar. Article 30 of the treaty states that it will enter into force on the date of the last notification made between the parties. Because Qatar already notified Argentina on 13 July 2018 that it had complied with its internal requirements, the treaty entered into force on 31 January 2021, the date of the last notification. For more information, see Tax Alert [2021-0425](#).

Brazil

- ▶ The second chamber of the Brazilian Superior Court of Justice (STJ) recently addressed whether technical service fees paid by a Brazilian entity to a Spanish tax resident are subject to taxation in Spain (where the service provider is resident) or to withholding tax (WHT) in Brazil under the double taxation treaty (DTT) between Brazil and Spain. A Brazilian entity hired a Spanish tax resident to provide engineering services and administrative assistance. Upon payment of the service fee, the Brazilian company did not withhold tax, asserting that Article 7 applied. The Brazilian tax authorities challenged the Brazilian taxpayer's position on the withholding tax, arguing that the taxpayer did not take into consideration Article 12 of the Brazil-Spain DTT, which establishes how royalty income is taxed. The STJ remanded the case to the lower court, finding that each case needed to be individually analyzed, and Article 7 of the DTT should not automatically apply to the income derived from the technical services. On remand, the STJ asked the lower court to analyze both Article 12 and Article 14, which establish how income from royalties and independent personal services are taxed. Article 7 of the DTT would only apply to income from technical services if the lower court determines that Articles 12 and 14 do not apply. If Article 7 applies, the income from the technical services would not be subject to WHT. For more information, see Tax Alert [2021-0105](#).
- ▶ The President amended the social contribution on net profit (CSLL) rates for financial institutions. Accordingly, as of 1 July 2021, the following CSLL rates apply: (i) 20% until 31 December 2021 and 15% beginning 1 January 2022 for private insurance companies, capitalization companies, leasing companies and credit card administrators; (ii) 20% until 31 December 2021 and 15% beginning 1 January 2022 for credit cooperatives; (iii) 25% until 31 December 2021 and 20% beginning 1 January 2022 for banks; and (iv) 9% for other legal entities. Since 1 March 2020, the applicable rate has been 20% for financial institutions.
- ▶ The Supreme Court (STF) ruled in a unanimous decision that the municipal tax on the transfer of real estate only is triggered when the real estate transfer is publicly registered.
- ▶ The STF ruled, in two binding decisions, that the state value-added tax (VAT) cannot be levied on the downloading of software, which is subject to the municipal tax on services (ISS). On 24 February 2021, the STF limited the legal effects of these decisions, concluding that application of the state VAT to the download of software should be determined on a case-by-case basis.
- ▶ The Brazilian Senate approved tax treaties with the United Arab Emirates, Switzerland and Singapore.

Canada

- ▶ Québec eliminated the restrictions on large businesses' ability to obtain an input tax refund (ITR), effective 1 January 2021. Accordingly, large businesses should have updated their procedures and systems by 1 January 2021 and increased the rate of the ITRs they claim for restricted expenses from 75% to 100%. Restricted expenses include electricity, gas, combustibles and steam used for a purpose other than to

produce property intended for sale, telecommunication services – with the exception of internet access services and tollfree numbers (e.g., “1 800” and “1 888” numbers) – and meals and entertainment expenses whose deductibility is limited to 50% for income tax purposes (the rate of 50% for the ITRs recoverable on these expenses remains applicable). For more information, see Tax Alert [2021-0090](#).

- ▶ The Government of British Columbia (BC) announced on 2 September 2020 that 1 April 2021 is the effective date for the implementation of the expanded Provincial Sales Tax (PST) registration requirements introduced by the 2020 BC Budget on 18 February 2020. The original implementation date was 1 July 2020; however, the date was postponed as part of the COVID-19 relief measures. Under the new registration requirements, Canadian providers of goods, along with Canadian and foreign providers of software and telecommunication services, would be required to register as tax collectors and collect a 7% PST from customers located in BC if their BC gross revenue exceeds the set threshold of CAD \$10,000. The expanded registration requirements apply to both business-to-business and business-to-consumer sales of software and telecommunication services. Additional administrative guidance on the application of the rules is yet to be provided by the BC government. For more information, see Tax Alert [2021-0472](#).
- ▶ Several provinces and territories tabled their fiscal 2021-22 budgets, which contain some tax measures affecting individuals and corporations but no new taxes and no tax increases:
 - ▶ Alberta Finance Minister Travis Toews tabled the province's fiscal 2021-22 budget on 25 February 2021. For more information, see Tax Alert [2021-0433](#).
 - ▶ Northwest Territories Finance Minister Caroline Wawzonek tabled the territory's fiscal 2021-22 budget on 4 February 2021. For more information, see Tax Alert [2021-0269](#).
 - ▶ Nunavut Finance Minister George Hickes tabled the territory's fiscal 2021-22 budget on 23 February 2021. For more information, see Tax Alert [2021-0410](#).
 - ▶ Yukon Finance Minister Sandy Silver tabled the territory's fiscal 2021-22 budget on 4 March 2021. For more information, see Tax Alert [2021-0496](#).
 - ▶ Prince Edward Island Finance Minister Darlene Compton tabled the province's fiscal 2021-22 budget on 12 March 2021. For more information, see Tax Alert [2021-0557](#).
 - ▶ New Brunswick Minister of Finance and Treasury Board Ernie Steeves tabled the province's fiscal 2021-22 budget on 16 March 2021. For more information, see Tax Alert [2021-0574](#).
 - ▶ Ontario Finance Minister Peter Bethlenfalvy tabled the province's fiscal 2021-22 budget on 24 March 2021. For more information, see Tax Alert [2021-0621](#).
 - ▶ Quebec Finance Minister Éric Girard tabled the province's fiscal 2021-22 budget on 25 March 2021. For more information, see Tax Alert [2021-0638](#).
 - ▶ Nova Scotia Minister of Finance and Treasury Board Labi Kousoulis tabled the province's fiscal 2021-22 budget on 25 March 2021. For more information, see Tax Alert [2021-0641](#).

Chile

- ▶ On 25 January 2021, Chile's Ministry of Finance [announced](#) the signing of a new DTT between Chile and the Netherlands. The DTT is aligned with the Organisation for Economic Co-operation and Development (OECD) model and BEPS guidance. The DTT will enter into force after parliamentary ratification and the exchange of ratification instruments. For more information, see Tax Alert [2021-0191](#).

Colombia

- ▶ The Colombian Government released the report prepared by the Commission of Experts on Tax Expenditures/Benefits (the Commission). The Commission suggested increasing certain tax rates and reducing the number of tax exemptions. For more information, see Tax Alert [2021-0593](#).
- ▶ The Colombian Government recently commented on an upcoming tax reform bill that is scheduled to be presented to Congress by the end of March. The specific proposals are not yet known, but it is expected the report prepared by the Commission of Experts on Tax Expenditures/Benefits will be taken into consideration.
- ▶ The Colombian Congress enacted Law 2069 of 2020, establishing a regime to promote companies' entrepreneurship and growth, consolidation and sustainability. The law also makes virtual tax inspections permanent once the health emergency ends and establishes that certain VAT benefits will no longer generate a refund right after the health emergency (however, balances in favor generated by the benefits may be used to offset VAT due in subsequent tax periods).
- ▶ Resolution 13 of 2021, issued by the Colombian tax authorities, creates and regulates the electronic invoice system for the electronic payroll supporting documents. The Resolution sets forth what content must be included in the electronic payroll supporting documents.
- ▶ The Colombian tax authorities issued Resolution 12 of 2021, which modified the electronic invoicing regulation by updating (i) the technical annex; (ii) the consecutive numbering of electronic invoices provisions, and (iii) the digital signature provisions.
- ▶ The Colombian tax authorities issued Resolution 15 of 2021, which regulates the use of electronic invoices treated as securities. The Resolution also introduced the RADIANT system, which parties must use to file electronic invoices treated as securities. The RADIANT system also monitors the transfer of electronic invoices, provides information about the previous holders of the security, and allows parties to transfer electronic invoices that are treated as securities to other parties.
- ▶ The Ministry of Health issued Resolution 222 of 2021, extending the health emergency resulting from COVID-19 until 31 May 2021. Certain tax incentives and other tax relief instituted in response to COVID-19 will remain in effect until the health emergency ends, at which point various tax obligations may be triggered.

Costa Rica

- ▶ Costa Rica's Ministry of Treasury submitted a proposed bill that would establish the dual and global income tax rules as part of the commitments Costa Rica made during its loan negotiations with the International Monetary Fund (IMF). This bill modifies the first bill proposed for establishing the dual and global income tax because the first bill contained provisions that were inconsistent with the agreements of the negotiation tables (i.e., an outline for discussing which proposals would become part of the loan agreement with the IMF). The new bill makes several modifications to the first bill, including eliminating a provision that would have established a tax on worldwide income and provisions that referenced a new CIT. For more information, see Tax Alert [2021-0293](#).
- ▶ Costa Rica's President and the Ministry of Finance published Executive Decree No. 42799-H, containing the "Guidelines for the implementation of treaty provisions and agreements in Costa Rica, relating to the importation of goods under tariff preferences." The decree establishes procedures for implementing various treaties and agreements in force in Costa Rica. The decree went into effect on 9 February 2021. For more information, see Tax Alert [2021-0397](#).
- ▶ Decree No. 9947 allows Costa Rica's Executive Branch to extend the period imported goods may stay in a tax warehouse. The decree went into effect on 17 February 2021. For more information, see Tax Alert [2021-0396](#).
- ▶ The tax authorities determined (Institutional Criteria No. DGT-CI-03-2020) that real estate transfer tax is triggered in mergers in which real estate is transferred.
- ▶ The tax authorities determined (Institutional Criteria No. DGT-CI-04-2020) that the method established for computing gains and losses from exchange differences in transactions should always follow the realization criterion. The Institutional Criteria should apply from the tax period in effect at the time the transaction is disclosed (e.g., the 2021 tax period).
- ▶ Resolution No. DGT-R-02-2021 authorizes the tax authorities to create a simplified return for taxpayers to disclose inactive legal entities.
- ▶ Bill No. 22,382, proposed as part of Costa Rica's negotiations with the IMF, would establish an annual tax of 0.5% for luxury real estate for residential, occasional or recreational use. Luxury real estate would encompass property with a value that is equal to or greater than approximately 150,000,000 Costa Rican colones. The taxable base would be the sum of the value of the building plus the land.
- ▶ Bill No. 22,369, *Law for the Reduction of Tax Benefits and Adjustment of Rates on Capital Revenues to Strengthen the Tax System*, would (1) increase the tax rates on remittances to foreign countries by 5 percentage points, (2) temporarily increase the rate on capital income and capital gains by 1.5 percentage points for two tax periods, (3) lower the reduced and staggered rates for profits or surpluses paid by cooperatives or "solidarity associations" by 15%, and (4) eliminate the reduced 7% tax rate for securities in colones issued by the National Financial System for Housing. The bill also would (1) cut the exemption on the yields from the Complementary Pension System by 50% and (2) eliminate the tax exemption for school salaries.

Dominican Republic

- ▶ Law 7-21 (the law) was enacted and reincorporates the provisions of Law 46-20 and its amendments on transparency and equity revaluation. Under the law, taxpayers have an additional 90 days to apply for certain tax benefits (e.g., revaluation, tax debt payment facilities and tax amnesty). Taxpayers must make a single payment of the taxes arising from the application of the law by 13 July 2021. Payments of tax liabilities determined by the Dominican tax authorities (DTA) in the process of administrative or judicial appeal, however, must be made immediately. Taxpayers may make a single payment by 13 July 2021 if they use the payment procedures for tax liabilities (1) derived from ordinary tax returns, self-assessments or voluntary tax return amendments and (2) not paid in a timely manner. Alternatively, they may split the payment in up to several installments, as long as those installment payments are made by 13 July 2021 and include the interest due under the installment agreement. In addition, the DTA issued General Norm 02-2021, establishing the forms taxpayers must use to apply for the benefits under the law. The DTA also extended the deadline for requesting the benefits until 18 May 2021.
- ▶ The DTA issued Resolution No. DDG-ARI-2021-0001, establishing procedures for claiming certain exemptions for January-April 2021 because of COVID-19. Those exemptions include an exemption from making CIT advance payments for individuals or single-owner businesses that are micro and small companies, as well as businesses in the tourism sector whose corresponding operating licenses are up to date with the Ministry of Tourism. The resolution also includes an exemption from the payment of the third CIT advance payment, which is determined by the tax return for tax year 2019, for individuals and undivided estates with non-commercial and industrial activities with an obligation to submit the tax return (IR-1) of the undivided estates.
- ▶ The National Congress approved a bill reestablishing the Special Zone for Border Development, which had expired on 1 February 2021. The bill establishes the Special Zone for Border Development and its tax incentives for 30 additional years. The special zone covers the provinces of Pedernales, Independencia, Elías Piña, Dajabón, Montecristi, Santiago Rodríguez and Bahoruco. The bill is pending enactment by the Executive Power.
- ▶ The DTA issued General Norm 01-2021, which modifies provisions of General Norms 01-2015, 07-2011 and 02-2020 on the promotion and tax optimization of the stock market. Among other things, General Norm 01-2021 modifies provisions on the: (i) exemption from payment of the tax on the issuance of checks and payments by electronic transfer for low-cost housing trusts; (ii) exemption from withholding tax on capital gains for shares registered in the stock market registry, provided the shares are subscribed and traded on the stock market and are part of a public offering; and (iii) exemption from the VAT on the transfer of goods or assets that are part of investment funds.
- ▶ The DTA issued draft amendments to Articles 5, 7, 10 and 18 of the transfer pricing regulations established by Decree No. 78-14 of 14 March 2014. The draft amendments would require

taxpayers to file the country-by-country report, master file and local file. The amendments to the transfer pricing regulations would be effective for tax years beginning 1 January 2021. As a result, the Dominican Republic committed to implementing the BEPS minimum standards in matters of tax transparency, one of them being the implementation of Action 13 (Transfer Pricing Documentation). For more information, see Tax Alert [2021-0555](#).

Ecuador

- ▶ Ecuador's Tax Administration issued regulations that allow taxpayers to make voluntary estimated income tax payments. Unlike taxpayers that are required to make estimated income tax payments, taxpayers making voluntary payments will be entitled to interest on those payments from the date the payment was made to the income tax payment due date. For more information, see Tax Alert [2021-0562](#).
- ▶ Ecuador's President issued a decree establishing temporary regulations for the payment of income tax by microenterprises. Microenterprises with no profits in tax year 2020 have until November 2021 to file an income tax return showing that they had no profits. The decree also establishes a reduced tax rate for taxpayers that did not have profits in tax year 2020 but are not on the Tax Administration's registry of microenterprises. For more information, see Tax Alert [2021-0564](#).

El Salvador

- ▶ The Salvadoran Congress approved Legislative Decree No. 791, which modifies the first paragraph of Section 25 of the Industrial and Commercial Free Trade Zones Law to clarify the parameters used to determine the goods and services considered necessary for an authorized activity, especially for construction activities. The modifications provide legal certainty on how Section 25 is applied. The Decree was published in Official Gazette No. 20, dated 28 January 2021.
- ▶ The General Directorate of Treasury published the average interest rate that will apply to the late payment of taxes from 1 February to 31 July 2021. The rate is 6.77% per annum, and after 60 days following the due date of the obligation, the interest rate increases to 10.77% per annum.
- ▶ The tax authorities announced that the application for filing the income tax return for tax year 2020 is now available. Users must access the General Directorate of Internal Taxes' (DGII for its Spanish acronym) Online Services [website](#), where they can file their returns. The income tax returns must be filed electronically as the DGII will not accept tax returns in person or by mail as part of its measures to prevent the spread of COVID-19. The Ministry of Finance, through the DGII, also informed taxpayers that they must file tax returns and reports through the DGII's Online Services website. If a taxpayer must file a return or report in person, the taxpayer may schedule an appointment [online](#) by selecting an office and the type of procedure to be performed.

Guatemala

- ▶ The tax authorities published on their website information about the new “Validated Appointment System,” which allows taxpayers to schedule appointments to perform administrative procedures or requests at the corresponding tax offices and tax agencies.
- ▶ The tax authorities issued Institutional Criterion 1-2021, 2-2021 and 3-2021.
 - ▶ Institutional Criterion 1-2021 establishes that if a taxpayer receives an invoice with errors or that is outside the period for which the expenses on the invoice were authorized, the taxpayer’s ability to satisfy its tax obligations should not be affected.
 - ▶ Institutional Criterion 2-2021 allows overdue solidarity tax (ISO) that is paid by the taxpayer to be credited to income tax payments over a three-year period. Taxpayers, however, may not claim a credit for surcharges, fines and interest related to the ISO.
 - ▶ Institutional Criterion 3-2021 establishes that the tax authorities should not deny VAT refund requests submitted by exporters of electricity when the invoices for the services are issued at a different time than that determined in the VAT Law, because the Guatemalan General Law of Electricity provides a specific process for the settlement/liquidation and payment of operations regarded as exports of electricity.
- ▶ The Leasing Law was enacted and establishes provisions for leasing activities in Guatemala, as well as the rights and obligations that apply to the parties involved in the leasing activities. From a tax perspective, the law establishes that (i) the option to purchase the leased property is subject to the Stamp Tax when the property is the subject of a second or further sale; (ii) the income generated is subject to income tax and the lease payments are a deductible expense; and (iii) the lessor must invoice and apply a 12% VAT on the amount of the purchase at the end of the lease agreement and on the lease payments made by the lessee.

Honduras

- ▶ No tax policy developments to report.

Mexico

- ▶ **Mexican mandatory disclosure rule (MDR) returns.** The Mexican tax authorities released the electronic form on their website for tax advisors and taxpayers to upload the informative tax return required for disclosing reportable arrangements. They also established that customized transactions with an aggregate tax benefit of more than \$100 million Mexican pesos (approx. US \$5 million) are subject to the MDR reporting requirement. A customized transaction is one designed, marketed, organized, implemented or administered for a taxpayer's particular circumstances. For more information on the MDRs, see Tax Alerts [2021-0217](#) and [2021-0244](#).
- ▶ **Wealth tax.** A federal member of Congress for the Morena political party issued a press release calling for a wealth tax that would be imposed on taxpayers with a certain amount in

assets. Revenue obtained from this tax would be allocated to COVID patients, medical supplies, improvements of hospital facilities and medical research.

- ▶ **Southern border region stimulus decree.** The [decree](#) establishes tax incentives for taxpayers that carry out their activities in the southern border region. These incentives include a 33% income tax credit and an 8% VAT credit. The incentives apply only to certain municipalities. The decree establishes that taxpayers should comply with certain requirements that must be reviewed by the tax authorities before applying the credits.
- ▶ **Tax benefits extended.** A new [decree](#) extends the tax stimulus decree for the northern border region published in 2018 until 2024. The tax stimulus decree includes a 33% income tax credit and an 8% VAT credit for taxpayers located in the northern border region. The new decree modified certain procedural aspects that may affect the application of the stimulus.

Nicaragua

- ▶ No tax policy developments to report.

Panama

- ▶ The Council of the European Union (the Council) updated the EU list of non-cooperative jurisdictions for tax purposes and kept Panama on the list, although there are no immediate consequences for Panama. Provided no defensive measures are taken against Panama, the treatment of corporate structures including Panama and the application of double tax treaties signed with Member States of the European Union will remain the same. For more information, see Tax Alert [2021-0456](#).
- ▶ Panama issued Executive Decree 766 of 2020, which establishes electronic invoicing in Panama. The electronic invoicing system will be available for individuals and entities that voluntarily request to use electronic invoicing from the tax authorities. Also, individuals and entities that are exempt from the use of tax equipment to invoice the provision of their services and sales will be required to use the electronic invoicing system.
- ▶ Executive Decree 770 of 2020 regulates the use of tax equipment for issuing tax receipts, invoices and other similar documents. The decree applies to any individual or entity that carries out industrial, commercial or professional activities and is obligated to use tax equipment to document their transactions and operations.
- ▶ Panama enacted Law 189 of 2020 to create an income tax regime applicable to entrepreneurs and micro, small and medium-sized enterprises. Law 189 imposes reduced income tax rates on certain individuals and entities. To qualify for the regime, applicants must comply with certain requirements, such as: (i) the entity must be registered under the Business Registry of the Micro, Small and Medium Enterprises Authority; (ii) the entity cannot result from the split-off of other corporations; (iii) the entity must have an annual gross income that does not exceed US \$500,000; and (iv) the shares or participation interest must be nominative, and the shareholders must be individuals.

Paraguay

- ▶ Transfer pricing rules became effective for the first time in Paraguay starting 1 January 2021. The first transfer pricing documentation obligation will be due in 2022 and, according to the local legislation, it must be prepared and signed by authorized local professionals registered with the tax authorities as transfer pricing specialists. Paraguayan transfer pricing rules broadly follow OECD transfer pricing guidelines, with some exceptions. One of these exceptions is the establishment of a new and specific transfer pricing method to be used in transactions involving commodities. Transfer pricing rules for transactions falling under the scope of the specific method will be in force starting from 1 July 2021.

Peru

- ▶ Supreme Decree 009-2021-EF modified the regulations for banks that report financial information to the Peruvian Tax Authority. The modified regulations establish a new threshold amount for reporting and new reporting requirements. The modifications are effective as of 27 January 2021. For more information, see Tax Alert [2021-0235](#).
- ▶ In a ruling (Report 001-2021-SUNAT/7T0000), the Peruvian Tax Authority established that capital gains obtained by a Chilean resident from the indirect transfer of Peruvian shares through the direct transfer of Chilean shares will be taxed only in Chile under the Peru-Chile Tax Treaty. For more information, see Tax Alert [2021-0430](#).
- ▶ Peru enacted Law 31110, which establishes a new preferential tax regime for agribusiness (see Tax Alert [2021-0136](#)). The regime, which went into effect 1 January 2021, replaces the prior preferential tax regime for agribusiness (Law 27360 and Urgency Decree 043-2019) repealed on 6 December 2020. The new regime applies to:
 - ▶ Taxpayers engaged in agribusiness activities and using mainly agricultural products outside Lima and Callao province
 - ▶ Agricultural producers with five hectares or less of production
- ▶ Peru eliminated the obligation to keep accounting books and records for individuals receiving corporate income from investment funds. For more information, see Tax Alert [2021-0135](#).
- ▶ Throughout 2020, Peru enacted tax measures affecting its thin capitalization rules, the special depreciation regime for buildings and construction, and exemptions for income taxes and VAT. Peru also enacted a regime allowing the tourism industry to defer payment of tax debts and apply to pay overdue taxes in installments. The measures generally went into effect 1 January 2021. For more information, see Tax Alert [2021-0140](#).
- ▶ Ministerial Resolution No. 035-2021-EF/15 establishes new fixed amounts of the selective consumption tax applicable to the value of goods in Peruvian soles. The measures went into effect 26 January 2021.
- ▶ Resolution No. 000016-2021/SUNAT establishes procedures for deferring compliance with certain tax obligations for tax debtors that: (i) obtained corporate net income of up to 2,300 Peruvian soles, or obtained or received income other than corporate net income that does not exceed 2,300 Peruvian soles, and (ii) whose tax residence, until 27 January 2021, was located in counties or states classified as “extreme alert” level or “very high alert” level for COVID-19.
- ▶ Supreme Decree No. 430-2020-EF regulates the type of financial information that financial companies must provide to the Peruvian tax authorities to combat tax evasion and avoidance. For example, the decree establishes the threshold at which financial companies must provide the financial information, how often the information must be reported and other aspects related to the information reported.
- ▶ The Peruvian tax authorities issued the following rulings:
 - ▶ *Report No. 133-2020-SUNAT/7T0000*. Concludes that closing the borders as part of the COVID-19 state of national emergency does not suspend the period for establishing tax residence in Peru.
 - ▶ *Report No. 143-2020-SUNAT/7T0000*. Establishes dividends that a company incorporated in Peru pays to (1) shareholders that are companies resident in Chile or (2) investment funds incorporated in Chile, are subject to Peruvian income tax withholding. However, for a company resident in Chile, the limits in Article 10 of the Peru-Chile Tax Treaty should be considered.
 - ▶ *Report No. 137-2020-SUNAT/7T0000*. Addresses the tax treatment applicable to income obtained by an investment fund established in Chile, from its participation in an investment fund established in Peru that makes investments in real estate businesses in Peru.
 - ▶ *Report No. 144-2020-SUNAT/7T0000*. Addresses the application of the principle of non-discrimination established in Article 18 of Decision 578 of the Andean Community.
 - ▶ *Report No. 131-2020-SUNAT/7T0000*. Addresses a Certificate of Residence’s validity in determining the application of tax treaty benefits.

Puerto Rico

- ▶ The Puerto Rico Treasury Department (PRTD) extended the due date from 15 March 2021 to 15 April 2021 for pass-through entities that are partnerships, special partnerships or corporations of individuals to file their calendar tax year 2020 income tax returns. The extension applies to both the return and the corresponding partners’ Form 480.6EC. For more information, see Tax Alert [2021-0549](#).
- ▶ In Administrative Determination 21-04, the PRTD extended the due date for filing income tax returns and paying the corresponding tax from 15 April to 17 May 2021 for individuals, estates and trusts (taxed as individuals), calendar-year-end corporations and other entities taxed as corporations. The extended due date also applies to entities that have a short tax year or a fiscal year 2020 and must file a tax return for tax year 2020 on or before 15 April 2021. For more information, see Tax Alert [2021-0650](#).
- ▶ The PRTD launched a new audit and investigation campaign

for 2021 that will focus on compliance: (1) by entities and individuals with the requirements set out in decrees that implement the tax exemption provisions of various laws, including Law 22-2012, (2) with the declaration and payment of motor vehicle excise taxes, and (3) with the declaration and payment of excise taxes on crude oil, products partially created from, and finished products derived from, petroleum. The campaign also will focus on compliance with: (1) the collection and deposit of sales and use tax on sales made through electronic means, including the internet, (2) the payment of income tax and the requirement to report payments for paid ads to persons that use digital platforms, including “influencers,” report and pay tax on prizes, and report and pay tax on compensation received from participation in digital platforms, and (3) the requirements to report and withhold applicable taxes for companies dedicated to the construction industry, including foreign companies.

United States

- ▶ **Legislative developments.** On 5 April, Senate Finance Committee Chairman Ron Wyden (D-OR) and Senators Sherrod Brown (D-OH) and Mark Warner (D-VA) released an international tax framework focusing on changes to the 2017 TCJA’s global intangible low-taxed income (GILTI), foreign-derived intangible income (FDII) and base erosion and anti-abuse tax (BEAT) provisions. The framework, which did not include legislative language, aims to reward companies that invest in the United States and remove incentives to shift jobs and investment out of the country.
- ▶ On 31 March, President Joe Biden outlined the American Jobs Plan, a \$2 trillion infrastructure proposal that would be financed with tax increases. See [Breaking Tax News 2021-9005](#). The infrastructure plan and tax increases would have to be passed by the US Congress in order to become law. According to a White House fact sheet, the Administration’s accompanying Made in America Tax Plan would:
 - ▶ Increase the corporate tax rate to 28%
 - ▶ Increase the GILTI rate to 21% and calculate it country-by-country
 - ▶ Encourage other countries to adopt strong minimum taxes on corporations
 - ▶ “Deny deductions to foreign corporations on payments that could allow them to strip profits out of the United States if they are based in a country that does not adopt a strong minimum tax”
 - ▶ Replace an “ineffective” provision in the 2017 Tax Cuts and Jobs Act (TCJA) that “tried to stop foreign corporations from stripping profits out of the United States”
 - ▶ Make it more difficult for US corporations to invert
 - ▶ Deny companies expense deductions for offshoring jobs and provide a credit for onshoring expenses
 - ▶ Eliminate the FDII deduction
 - ▶ Impose a 15% minimum tax on corporations based on “book income”
 - ▶ Eliminate tax preferences for fossil fuels
- ▶ Strengthen business tax enforcement
- ▶ On 10 March, President Biden signed into law the \$1.9 trillion American Rescue Plan Act (H.R. 1319), a COVID-19 relief bill that included provisions on taxes, health care, unemployment benefits, direct payments, state and local funding and other issues. See Tax Alert [2021-0538](#). In addition to providing direct \$1,400 payments for each taxpayer and dependent (cut off at income levels of \$80,000/individual, \$160,000/couple), the legislation:
 - ▶ Extends the employee retention credit (ERC) through the end of 2021, and expands it to certain startup businesses
 - ▶ Increases the lending authority of the Paycheck Protection Program (PPP) to \$813.7 billion and expands the PPP’s eligibility rules
 - ▶ Extends pandemic unemployment benefit programs through 6 September
 - ▶ Expands the scope of IRC Section 162(m) deduction limits on executive compensation to deny the deduction for compensation in excess of \$1 million for the eight highest paid employees, plus the CEO and CFO, at publicly traded companies, effective for tax years after 2026
 - ▶ Repeals the IRC Section 864(f) worldwide interest expense allocation election
 - ▶ Extends the TCJA Section 461(l) disallowance of excess business loss an additional year, through 2026
 - ▶ Reduces the IRC Section 6050W third-party network transactions reporting threshold from \$20,000 to \$600
- ▶ **TCJA updates.** The US Treasury Department issued the following significant TCJA regulations:
 - ▶ Final regulations ([TD 9942](#)) implementing changes made under the TCJA that simplified the accounting rules for eligible small business taxpayers, thereby providing important exceptions from the general cash method of accounting limitation under IRC Section 448, the IRC Section 471 inventory rules, the IRC Section 263A cost capitalization rules and the IRC Section 460(e) limitation on the availability of the completed contract method. See Tax Alert [2021-0053](#).
 - ▶ Final regulations ([TD 9946](#)) providing guidance on the disallowance of a deduction for certain fines, penalties and other amounts paid to, or at the direction of, governmental entities (and other identified entities), for violating or potentially violating a law, under IRC Section 162(f), as amended by the TCJA, and the related reporting requirements under IRC Section 6050X. See Tax Alert [2021-0108](#).
 - ▶ Final carried interest regulations ([TD 9945](#)) under IRC Section 1061, which generally follow the approach taken by proposed regulations published on 14 August 2020, with several notable exceptions. See Tax Alert [2021-0291](#).
- ▶ **Other updates.**
 - ▶ Final regulations ([TD 9938](#)) under IRC Section 4960, which imposes an excise tax on applicable tax-exempt organizations and related organizations that pay

remuneration over \$1 million (excess compensation) or an excess parachute payment to a covered employee. See Tax Alert [2021-0152](#).

- ▶ The IRS announced ([Notice 2021-11](#)) that the period for ratably withholding employee Social Security tax that was deferred in 2020 is extended from 30 April 2021 to 31 December 2021.
- ▶ The IRS announced ([Notice 2021-13](#)) transitional penalty relief for partnerships incorrectly reporting their partners' beginning capital account balances on 2020 Schedules K-1 (Form 1065) and the Schedules K-1 (Form 8865), following changes to the reporting requirements included in the 2020 Form 1065 instructions. See Tax Alert [2021-0171](#).
- ▶ The IRS released formal guidance ([Notice 2021-20](#)) on the employee retention credit (ERC) for 2020, which incorporates most of the FAQs that had been posted on the IRS website, with certain modifications and additional guidance. See Tax Alert [2021-0513](#).

Uruguay

- ▶ Uruguay enacted Law No. 19.924 (Budget Law), approving Uruguay's budget for 2020–2024. The Budget Law modified Uruguay's tax legislation and generally went into effect 1 January 2021. The modifications increase deductions and allow nonresident service providers in the free-trade zone to provide services to consumers in the national territory. For more information, see Tax Alert [2021-0317](#).
- ▶ Uruguay's Executive Power suspended personal income tax (PIT) withholding and nonresident income tax (NRIT) withholding on temporary leases of real estate for tourism purposes. Entities that collect lease payments for properties leased for no more than 31 days do not have to withhold PIT and NRIT on lease payments from 4 November 2020 to 30 April 2021. For more information, see Tax Alert [2021-0315](#).
- ▶ Uruguay made several changes to the rules affecting investment projects. Specifically, Uruguay established rules for determining the CIT exemption and the CIT and net wealth tax (NWT) liabilities when a request for CIT and NWT benefits is pending (see Tax Alert [2021-0310](#)). It also established that taxpayers receiving CIT exemptions for investment projects may not receive any other CIT benefits. Additionally, Uruguay:
 - ▶ Expanded the regime for construction projects considered "great economic dimension projects" to investment projects of more than 20,000,000 Indexed Units (approx. US \$2,250,000) and established exemptions for certain investment projects (see Tax Alert [2021-0378](#))
 - ▶ Modified the methodology for evaluating investment projects to increase the applicable tax benefits (see Tax Alert [2021-0377](#))
- ▶ Uruguay's Executive Power modified the requirements taxpayers must meet to not consider goodwill in mergers or spin-offs that are part of a corporate restructuring. Under the new requirements, ultimate beneficial owners must maintain at least 95% of their equity proportions for at least two years to not consider goodwill in corporate restructurings. For more information, see Tax Alert [2021-0426](#).

- ▶ In the last few months of 2020, Uruguay modified the "tax holiday" regime, which provides a temporary income tax exemption to new tax residents for income from foreign investments. The modifications allow taxpayers to choose to be exempt from income tax on the income from foreign investments for 10 years, instead of five years. The modifications also allow more taxpayers to qualify for the 10-year exemption period. The Uruguayan tax authorities also ruled that a taxpayer who elected to participate in the "tax holiday" regime must remain in the regime because the taxpayer could not show that there was a fact or law error when the election was made. For more information, see Tax Alerts [2021-0311](#) and [2021-0559](#).
- ▶ The Uruguayan tax authorities updated the list of low-or no-taxation (LONT) countries, which applies for income taxes (corporate, personal and nonresident), NWT, and the transfer pricing regime. The updated LONT list includes 39 countries and went into effect 1 January 2021. For more information, see Tax Alert [2021-0312](#).
- ▶ The Uruguayan tax authorities addressed which types of real estate investments made by a foreign individual are valid for purposes of establishing tax residency in Uruguay. A foreign individual may establish tax residency in Uruguay by investing in real estate through a promise of sale. A foreign individual also may be able to establish tax residency by investing through an entity, provided certain requirements are met. For more information, see Tax Alert [2021-0573](#).

Venezuela

- ▶ Venezuela published Decree No. 4,420, which establishes an income tax exemption for individuals residing in Venezuela. Under the tax exemption, individuals must pay income tax only if the net taxable income exceeds 5,000 Tax Units on income from a territorial source obtained during tax year 2020. Taxpayers who do not comply with the timely filing of the tax return will lose the tax exemption. The tax exemption applies until the due date for FY2020 income tax returns, which is 31 March 2021.
- ▶ Decree No. 4,443 exempts from VAT, customs duties and other taxes, merchandise that enters the national customs territory in a passengers' luggage. The passengers, however, must be coming from the Free Zone for Tourism Investment in the Paraguaná Peninsula, Falcón State or the Free Port of Nueva Esparta State and the merchandise's value must not exceed a value in national currency equivalent to 3,000 times the exchange rate of the currency with the highest value (currently, the Euro), published by the Central Bank of Venezuela. The Decree is valid for five years from the date of its publication in the Official Gazette.

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