Americas tax policy update

Q2 2023

Top news

Multiple jurisdictions consider action on OECD/G20 BEPS 2.0 Pillar Two

Canada released draft legislative proposals relating to the implementation of a global minimum tax under the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) 2.0 Pillar Two. More specifically, the draft *Global Minimum Tax Act* is intended to implement the income inclusion rule, the domestic minimum top-up tax rules and the UTPR (sometimes referred to as the Undertaxed Profits Rule) that form part of the Model Rules for the Global Minimum Tax (GloBE Rules). Puerto Rico proposed a bill to establish a 15% global minimum tax for large multinational enterprise groups to align with the OECD/G20's Inclusive Framework on BEPS 2.0 Pillar Two. Argentina's draft Budget Law 2024 sent to Congress includes a recommendation to evaluate possibly enacting a 15% corporate minimum tax applicable to multinational groups. Chile's new tax-reform plan, the so-called Fiscal Pact, includes incorporation of OECD rules on minimum global taxation of multinational groups. See Tax Alert 2023-1456, Tax Alert 2023-1564, Tax Alert 2023-1842 and Tax Alert 2023-1377.

Argentine Government amends the Income Tax Law, incorporating 'cedular' tax for 'high-income' individuals

On 6 October 2023, the Argentine National Executive Branch enacted Law 27,725, which amends the Income Tax Law starting on 1 January 2024. Specifically, the law replaces the current income tax paid by employees with a "cedular" tax on "high incomes" received through salaries, retirements and pensions. See Tax Alert 2023-1682.

Canada moves ahead with its own digital services tax, releasing draft legislation

It is anticipated that Canada's digital services tax (DST) will be enacted by 1 January 2024, with retroactive effect to 1 January 2022. The new rules may result in a filing obligation and tax liability for any entity — Canadian or otherwise — that is a part of a corporate group that has global consolidated revenues of €750 million or more and earns Canadian digital services revenue from (1) providing online marketplace services, online advertising and social media services; or (2) the monetizing of user data in excess of CA$20 million. See Tax Alert 2023-1472.

Costa Rica removed from EU's 'blacklist' of non-cooperative jurisdictions for tax purposes

On 17 October 2023, the Council of the European Union (EU) adopted a revised EU list of non-cooperative jurisdictions for tax purposes and decided to delist Costa Rica from the EU's Annex I following the reforms incorporated in the Income Tax Law through the approval of Law No. 10.381, amending aspects of Costa Rica's foreign-source income exemption regime. See Tax Alert 2023-1730.

Chilean Government announces content of 'Fiscal Pact'

On 1 August 2023, President Gabriel Boric revealed the main guidelines comprising the so-called **Fiscal Pact**, which the government seeks to promote after Congress unexpectedly rejected the tax-reform project in March 2023. The new tax-reform plan will be proposed in two separate bills focusing on combating tax evasion and making tax changes that would increase revenue. See Tax Alert 2023-1377.

Country
Cross-border
Argentina
Brazil
Canada
Chile
Colombia
Costa Rica
Dominican Republic
Ecuador
El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama
Paraguay
Peru
Puerto Rico
United States
Uruguay
Venezuela

Cross-border

- On 2 July 2023, the **Convention to Harmonize the Double Tax Treaties** (DTT) of the Pacific Alliance (the Convention) entered into force. The Convention addresses the taxation of pension funds on their cross-border investments within the Pacific Alliance, which includes Chile, Colombia, Mexico and Peru. The Convention will apply beginning 1 January 2024. See Tax Alert 2023-1313.

Argentina

- On 6 October 2023, the Argentine National Executive Branch enacted Law 27,725, which amends the Income Tax Law starting on 1 January 2024. Specifically, the law replaces the current income tax paid by employees with a **"cedular" tax on "high incomes"** received through salaries, retirements and pensions. See Tax Alert 2023-1682.
- On 15 September 2023, the Argentine Government sent the draft Budget Law 2024 to the Congress with a recommendation to evaluate possibly enacting a **15% corporate minimum tax** applicable to multinational groups to increase tax revenues. To date, no specific project or further details have been disclosed. See Tax Alert 2023-1564.
- The Argentine Federal Tax Authority established a new **income tax prepayment** for companies that provide "financial intermediation and insurance services" as their principal activity or are registered as payment service providers. The income tax prepayment is creditable against the corporate income tax liability for fiscal year 2023 or 2024. See Tax Alert 2023-1657.
- On 24 July 2023, the Argentine National Executive Branch issued a decree which establishes certain taxes on the purchase of foreign currency. See Tax Alert 2023-1309.

Brazil

- The Brazilian Federal Revenue Service published Normative Instruction 2,161/23 (NI), which regulates the **new transfer pricing** (TP) rules in Brazil. The NI reiterates that the TP rules apply to transactions with related parties abroad, tax havens and privileged tax regimes. The adoption of the new Brazilian transfer pricing system is mandatory as from 1 January 2024 and optional as from 1 January 2023. See Tax Alert 2023-1744.
- On 1 August 2023, Brazil published Complementary Law number 199, which establishes the National Statute for the Simplification of Ancillary Tax Obligations. The declared objectives of the Complementary Law include (i) reducing the **compliance costs of tax obligations** for both taxpayers and tax administrations; and (ii) encouraging compliance by taxpayers. See Tax Alert 2023-1410.
- Brazil's Senate is currently analyzing a long-discussed reform proposal for **indirect taxes**, which passed the Chamber of Deputies on 7 July 2023. The proposal would significantly simplify Brazil's indirect tax system. As implementation of the proposal, if approved, would require considerable transition time, taxpayers should consider taking action now to prepare for the changes. See Tax Alert 2023-1386.
- Following the rejection of measures aimed at altering the taxation of **investments made abroad by individual** Brazilian taxpayers, the Brazilian Government proposed a new bill that would address the same topics but make minor changes to the previously proposed measures. See Tax Alert 2023-1504.
- On 31 August 2023, the Brazilian Government proposed a bill that would change the corporate income tax system by eliminating the **deductibility of interest on net equity** as of 1 January 2024. The bill, however, would not prevent the deduction of interest accrued to determine the corporate income tax basis related to calendar year 2023, even if paid or credited in calendar year 2024. See Tax Alert 2023-1477.
- The Brazilian Government published Provisional Measure 1,184/23 (PM), which makes changes to how **certain investment funds** in Brazil will be taxed. The provisional measure also establishes a new withholding tax mechanism for unrealized gains. See Tax Alert 2023-1471.

- On 25 July 2023, the Brazilian Government published Provisional Measure (PM) 1,182/2023 (dated 24 July 2023) (PM 1,182), which has the effect of regulating the commercialization of fixed-odds **sports betting** in Brazil. The impact of this regulation will be significant for the Brazilian market, which is currently attended by foreign operators. See Tax Alert 2023-1328.

Canada

- On 4 August 2023, the Department of Finance released for public comment several packages of draft legislative proposals, including new draft legislative proposals relating to the implementation of a **global minimum tax** under OECD/G20 BEPS 2.0 Pillar Two. More specifically, the draft *Global Minimum Tax Act* is intended to implement the income inclusion rule, the domestic minimum top-up tax rules and the UTPR (sometimes referred to as the Undertaxed Profits Rule) that form part of the Model Rules for the Global Minimum Tax (GloBE Rules) that were released by the OECD on 20 December 2021. See Tax Alert 2023-1456.
- On 4 August 2023, the Department of Finance released Several packages of draft legislative proposals and accompanying explanatory notes for public comment. The release includes a general package of draft income tax proposals relating to most of the remaining 2023 federal budget measures and to previously announced proposals. **Income tax proposals** include limiting deductions for net interest and financing expenses to a fixed ratio of adjusted taxable income for the year; extending, by three years, the temporary reduction in corporate income tax rates for zero-emission technology manufacturing and processing income; introducing a 2% tax on the net value of share repurchases by public corporations in Canada; introducing a 30% refundable investment tax credit for eligible investments in clean technology equipment; and amending the general anti-avoidance rule. Other proposals would affect Canada's domestic digital services tax and indirect taxes. See Tax Alert 2023-1387.
- Canada on 22 June 2023 enacted new rules to enhance **mandatory disclosure requirements** included in Bill C-47, *Budget Implementation Act, 2023, No. 1*. The new rules, which include an expansion of the existing reportable transaction rules and new reporting requirements for notifiable transactions and reportable uncertain tax treatments, are intended to provide the Canada Revenue Agency with earlier access to relevant information for certain transactions and tax planning arrangements. See Tax Alert 2023-1298.
- Canada is moving ahead with enactment of its own **digital services tax** (DST). It is anticipated that Canada's DST will be enacted by 1 January 2024, with retroactive effect to 1 January 2022. The new rules may result in a filing obligation and tax liability for any entity — Canadian or otherwise — that is a part of a corporate group that has global consolidated revenues of €750 million or more and earns Canadian digital services revenue from (1) providing online marketplace services, online advertising and social media services; or (2) the monetizing of user data in excess of CA$20 million. See Tax Alert 2023-1472.
- On 4 August 2023, Canada's Department of Finance released for public comment draft income tax legislative proposals related to the introduction of a new **clean technology investment tax credit** (ITC) and related labor requirements, as announced in the 2022 federal fall economic statement and the 2023 federal budget. The draft legislation also contained updated legislative proposals relating to the ITC for carbon capture, utilization and storage, which was originally announced in the 2021 federal budget and updated as a part of the 2022 and 2023 federal budgets. See Tax Alert 2023-1431.
- On 4 August 2023, the federal government released for public comment revised legislative proposals on the proposed **excessive interest and financing expenses limitation rules** (the EIFEL rules) to take into account various comments received since their initial release on 4 February 2022 and their subsequent revision through draft legislative proposals released on 3 November 2022. See Tax Alert 2023-1421.
- Canada's much-anticipated Bill C-56, ***Affordable Housing and Groceries Act*** received first reading in the House of Commons on 21 September 2023, effectively introducing it in Parliament. The bill would amend the *Excise Tax Act* to implement certain enhancements to the GST new residential rental property rebate (GST rental rebate), which Prime Minister Justin Trudeau announced on 14 September 2023. See Tax Alert 2023-1611.
- **Distributed investment plans** (DIPs) that are selected listed financial institutions in Canada were required to make a written request to obtain certain information from their investors by 15 October 2023. Without this information, certain investors may be deemed to be residents of the highest-rate province, resulting in the DIP having higher tax liabilities or lower refunds. See Tax Alert 2023-1579.

Chile

- In a national broadcast on the morning of 1 August 2023, President Gabriel Boric revealed the main guidelines that will be part of the so-called **Fiscal Pact**, which the government seeks to promote after Congress unexpectedly rejected the tax-reform project in March 2023. The new tax-reform plan will be proposed in two separate bills focusing on combating tax evasion and making tax changes that would increase revenue. See Tax Alert 2023-1377.

Colombia

- The Constitutional Court of Colombia ruled, regarding users of **free zones**, that article 11 of law 2277 of 2022 violated the principles of legality and tax certainty by ignoring a mixed tariff regime and indicated that it will not be applicable to taxpayers who had met the conditions to access the regime before from 13 December 2022. See Tax Alert.
- On 4 September 2023, the Council of State suspended some sections of tax rulings issued by the Tax Authority in relation to the **Single Use Plastic Tax**, therefore, currently under article

50 of Law 2277 of 2023, the taxpayers will be the producers or importers of final goods packaged in single-use plastic products. The decision to suspend the interpretation has been appealed. See Tax Alert

- On 8 September 2023, the Tax Authority published a draft resolution to regulate the **electronic invoicing system** and electronic equivalent documents. The points addressed include:
  - A new electronic document called *electronic invoice adjustment note* was established regarding accepted invoices.
  - Credit notes without reference to invoice were eliminated.
  - Technical annex 1.9 was modified in relation to healthy taxes.
  - Electronic equivalent documents were regulated.

  See Tax Alert.

Costa Rica

- On 17 October 2023, the Council of the EU adopted the conclusions on the revised **EU list of non-cooperative jurisdictions** for tax purposes and decided to delist Costa Rica from the EU's Annex I (commonly known as the "blacklist") following the reforms incorporated in the Income Tax Law through the approval of Law No. 10.381, to amend aspects of Costa Rica's foreign-source income exemption regime. See Tax Alert 2023-1730.
- Costa Rica's Tax Authority published a resolution, establishing the requirements for declaring income from **movable and immovable capital** under the corporate income tax regime. To have movable and immovable capital taxed under the corporate income tax regime, taxpayers must have at least one employee that meets certain conditions. If a taxpayer no longer has an employee that meets the conditions, the taxpayer must register for the tax on capital income regime. See Tax Alert 2023-1430.
- Costa Rica's Tax Authority issued a private letter ruling in response to a request for guidance on the tax treatment of **cryptocurrencies and crypto assets** from the Director of Revenue and the Director of Taxpayer Services, both from the General Directorate of Taxation. Generally, the ruling views these assets as virtual (intangible) assets that may be taxed as ordinary or capital income, depending on the particular circumstances. In some situations, crypto assets also may be subject to value-added tax. See Tax Alert 2023-1492.
- In resolution No. MH-DGT-RES-0017—2023 (Resolution), the Tax Authority consolidated, under a single resolution, the categories of **export-related services** that are exempt from Costa Rica's value-added tax (VAT). The Resolution also details the services included in each of these categories, as well any requirements that must be met. See Tax Alert 2023-1373.
- Costa Rica Tax Authority intends to scrutinize taxpayers **claiming loss or zero profit** on FY22 Corporate Income Tax returns. Taxpayers who have reported losses or zero profits on their Corporate Income Tax returns for Fiscal Year 2022 in Costa Rica should be prepared for interactions with the Tax Authority, including being required to submit audited financial statements and meeting with Tax Authority officials at first stages. See Tax Alert 2023-1312.

Dominican Republic

- The Dominican Republic signed the "Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports" as part of its commitment to the OECD/G20 BEPS project. Exchanging information in CbC Reports will provide the Tax Administration with more information on transfer pricing matters. See Tax Alert 2023-1524.
- On 10 August 2023, the President of the Dominican Republic enacted Law No. 51-23 to temporarily establish special treatment that allows the automatic declaration of the statute of limitations. The law also establishes an **expedited tax audit** procedure and debt payment facilities for tax debts. This law is applicable until 20 December 2023. See Tax Alert 2023-1420.
- The Dominican Tax Authority issued General Norm 06-2023, which appoints payment processing companies, payment aggregators and electronic payment companies as withholding and collection agents of **VAT** and establishes the criteria for the financial services they provide. See Tax Alert 2023-1689.

Ecuador

- No tax policy developments to report.

El Salvador

- El Salvador's Tax Authority has issued its annual guide on transactions with **tax havens**, which sets out a list of countries, states or territories that are considered to be preferential tax regimes, low- or no-tax jurisdictions. See Tax Alert 2023-1646.
- El Salvador's Congress approved bills to reform the International Services Law (ISL) and the Free Trade Zones Law (FTZL). The bills would make substantial modifications to the two main **free-trade regimes** for goods and services. See Tax Alert 2023-1434.

Guatemala

- Guatemala's Superintendency of Tax Administration announced the implementation of updates to the new **tax inspection risk model** based on economic sectors. According to the tax authorities, the model's segmentation by economic sector enables effective and precise analysis and monitoring, tailored to the peculiarities of each segment and subsegment of the national economy. From an Income Tax perspective, the updated tax inspection risk model has the capacity to notify the Tax Authorities when it detects any anomaly in the taxpayers' returns by unifying different points of gathered information. See Tax Alert 2023-1475.
- The Advance Declaration of Goods was implemented at several border posts between Guatemala and El Salvador, which implies that all customs posts between both countries

are able to use such Declaration. With this project, **exporters and importers in Guatemala and El Salvador** will enjoy new benefits, including: electronic processing of procedures; faster delivery and authorization of documents and payment of taxes; shorter response times from the customs authorities; lower costs and improvements in export logistics; and management of the advance declaration on a 24/7 schedule, 365 days a year and from anywhere in the world through the specific electronic tools.

- An agreement signed between the Guatemalan Tax Authorities and the **Customs** Directorate of the Republic of China (Taiwan) seeks to facilitate trade and border controls through technological systems. The purpose of the agreement is to strengthen communication and cooperation with Asian countries recognized as benchmarks by the World Customs Organization, for which purpose an exchange of best practices was carried out to make national exports and imports safer and more competitive.

Honduras

- No tax policy developments to report.

Mexico

- On 12 September 2023, the Mexican Senate approved the draft decree amending various provisions of the Mexican General Corporations Law (LGSM by its acronym in Spanish), which aims to allow companies to use **technological tools** to carry out their activities more efficiently. See Tax Alert.

- The General Economic Policy Criteria for 2024 established the **economic package** for next year which seeks to give continuity to the national projects focused on shared social development with economic stability and prudent fiscal management.

- On 15 August 2023, the "Decree that modifies the Tariff of the General **Import and Export** Tax Law" (Decree) was published in the Federal Official Gazette (Diario Oficial de la Federación in Spanish). The main changes of the Decree entered into force in the same day and their validity ends on 31 July 2025. In addition, on 16 August, the "Agreement that modifies the Ministry of Economy Rules and Criteria in Foreign Trade matters" was published. See Tax Alert.

- On 3 August 2023, Annex 1 of the Third Amendment to the **Foreign Trade** General Rules for 2023 was published in the Official Gazette, through which the Tax Administration Service (SAT) established the new format of the Security Profile for companies that have or want to obtain registration as an Authorized Economic Operator (AEO). See Tax Alert.

- The mining industry union's appeal against the application of the *PTU* (i.e. **Profit Sharing**) limits was resolved in favor of the company. On 3 August 2023, the 8th District Judge in Labor Matters in Mexico City resolved an indirect appeal filed by 312 employees who are part of the Sindicato Minero Metalúrgico Frente against the discussion, approval, issuance, promulgation, and order of publication of the labor subcontracting reform of 23 April 23, 2021, specifically article 127 section VIII. See Tax Alert.

- On 7 July 2023, the Agreement ACDO.AS2.HCT.260623/160.P.DIR, of the Technical Council of the Mexican Social Security Institute, was published in the Official Gazette of the Federation, which approves the criterion number 02/2023/NV/SBC-LSS-27-IV that includes guidance to employers or obligated parties, regarding exclusions as part of the Base Contribution Salary, payments of employee profit sharing and payments made as productivity bonus or of any other nature, in accordance with article 27 of the Mexican Social Security Law

Nicaragua

- No tax policy developments to report.

Panama

- Panama enacted a new law including transitory tax recovery measures and a special transitory procedure for abbreviated audits and management of **tax debts**. The law establishes special treatment that allows the General Directorate of Revenue to declare the extinction ex officio of tax debts that meet certain requirements, introduces an abbreviated audit procedure, and establishes regulatory tax measures as well as tax debt payment facilities. See Tax Alert 2023-1724.

- Panamanian Tax Authority further extends the deadline for resident agents to file affidavits on **accounting records of offshore entities**. The deadline for Panamanian resident agents to file affidavits corresponding to the possession and location of offshore entities' accounting records has been further extended until 31 December 2023. This extension implicitly grants additional time for these entities to provide the relevant information to their resident agents. See Tax Alert 2023-1247.

- The Panama Tax Authority published a list of the new withholding agents for **VAT** (ITBMS, for its name in Spanish) purposes, for FY2024 and subsequent years. The list includes 736 taxpayers which are considered "Great Buyers". It is important to consider that the withholding agents already designated and that are included once again in the list must continue to comply with their obligations in the same manner as they have been in the past.

Paraguay

- On 12 October 2023, the Executive Power enacted Law No. 7190 of "The **Carbon Credits**", to establish a regime of ownership of credits derived of the benefits of carbon reduced, avoided or captured, determine the ownership of carbon credits generated from projects developed in Paraguay and build a formal mechanism of accounting of said credits, and their transactions. The holder can transfer the carbon credits, totally or in fractions, free of charge or with cost. The transfer of carbon credits is exempt from VAT.

- On 4 August 4, 2023, the Paraguay Executive Branch enacted Law No. 7143/2023 "Creating the **National Directorate of Tax Revenue**" (Dirección Nacional de Ingresos Tributarios, in Spanish)", from the integration of the Sub-secretariat of State of Taxation (SET, for its acronym in Spanish) and the National

Customs Directorate under one body, the National Directorate of Tax Revenues (DNIT, for its acronym in Spanish).

Peru

- A recent Peruvian Supreme Court decision establishes that Peruvian branches are not entitled to **offset losses** from previous years when distributing dividends to a nonresident parent company. See Tax Alert 2023-1486.
- In a recent ruling, the Peruvian Tax Authority established guidelines for applying a multinational agreement to avoid double taxation of **Andean Community**. The Tax Authority concluded that Peruvian income tax applied to income earned by a Peruvian tourism company from a Bolivian company that hired the Peruvian company to provide transportation service and tour guide services in Peru. The Peruvian Tax Authority also concluded that the outcome does not change if tax was withheld, or payment was made, in Bolivia. See Tax Alert 2023-1371.
- The Peruvian Tax Authority established guidelines on the scope of applying the nondiscrimination clause of the **Double Tax Treaties** (DTTs) signed by Peru in Ruling 000087—2023, published on 11 July 2023. The Tax Authority determined that the nondiscrimination clause included in the DTTs that Peru has signed with Brazil, Chile and Canada applies exclusively to nationals of a Contracting State that are residents of said State, whereas the nondiscrimination clause in the DTTs signed with Switzerland, Mexico, Korea and Portugal applies to nationals of a Contracting State, even if they are not residents of that State. See Tax Alert 2023-1322.
- Peru enacted regulations on preferential **depreciation rates** for buildings, construction and hybrid and electric vehicles. Supreme Decree 156-2023-EF, published on 21 July 2023, establishes regulations for the application of Law No. 31652, which incorporated the option for taxpayers to apply accelerated depreciation for buildings, construction and hybrid and electric vehicles, from 1 January 2023. See Tax Alert 2023-1353.
- The Peruvian Tax Authority established guidelines for **gains or losses derived from exchange-rate differences** from foreign currency loans in Ruling 00073–2023. Gains or losses derived from exchange-rate differences for credits in foreign currency obtained from transactions with nonresidents must be considered in the income tax determination, even if the interest has not been paid within the period established for filing the Annual Income Tax Report. See Tax Alert 2023-1275.

Puerto Rico

- Puerto Rico's House of Representative proposed a bill to establish a **15% global minimum tax**. In general, the bill (PC 1908) proposes a 15% global minimum tax for large multinational enterprise groups to align with the OECD/G20 BEPS 2.0 Pillar 2. Moreover, the bill would establish refundable tax credits for an exempt entity that elects to pay the 15% global minimum tax, provided certain conditions are met. See Tax Alert 2023-1842.
- Puerto Rico's House of Representative approved a bill to **reduce tax rates** applicable to individuals and corporations for tax year 2023 onward. House of Representatives Bill 1839 would, among other things, increase the tax brackets and reduce rates for individuals earning $41,500 or more. In the case of corporations, the current income tax surtax (which ranges between 5% to 19%) would be repealed, while the 18.5% normal tax rate for corporations would be repealed and substituted with three new rates ranging from 16%, 26% and 36%. The 16% would apply to net income equal to or lower than $500,000. The 26% rate apply to net income higher than $500,000 but lower than $2,000,000, while the 36% rate would apply to income exceeding $2,000,000.

United States

- In Notice 2023-64, the US IRS published interim guidance that clarifies certain provisions of the **corporate alternative minimum tax**, enacted under the Inflation Reduction Act of 2022 (IRA). The IRS also announced that it plans to issue proposed regulations that are consistent with the guidance in the notice and previously issued interim guidance in Notice 2023-7 and Notice 2023-20. See Tax Alert 2023-1570.
- In a notice released on 21 July 2023 (Notice 2023-55), the US IRS announced temporary relief for taxpayers seeking a **foreign tax credit** by deferring key components of Treas. Reg. Sections 1.901-2 and 1.903-1, which were issued on 28 December 2021 (TD 9959, 87 FR 276; FTC Creditability Regulations). For tax years ending on or before 31 December 2023, the notice generally allows taxpayers to apply (1) the former regulations' more permissive standards for determining whether a tax was a creditable net income tax under IRC Section 901, and (2) the current IRC Section 903 "in lieu of" tax rules without regard to the attribution requirement. The notice allows taxpayers to claim foreign tax credits that otherwise may not have been available, and while the relief period is limited, ending with 2023 tax years, Treasury is considering changes to the foreign tax credit regulations and further relief. See Tax Alert 2023-9004.
- In Notice 2023-63, released 8 September 2023, the US IRS described rules that the IRS is considering for inclusion in proposed regulations under IRC Section 174, as amended by the Tax Cuts and Jobs Act. The guidance also covers the treatment of **specified research or experimental** (SRE) expenditures under IRC Section 460, as well as the application of IRC Section 482 to cost-sharing arrangements that involve SRE expenditures. Because the potential rules described in Notice 2023-63 are not required to be applied retroactively, and the forthcoming proposed regulations will not apply to tax years ending on or before September 8, 2023, taxpayers can continue relying on prior law for tax years ending on or before September 8, 2023. See Tax Alert 2023-1526.
- A financial economist at the US Treasury Department recently told an International Fiscal Association international tax conference that Treasury would prefer the adoption of Alternative A for the **transfer pricing** scoping criteria in Amount B in OECD/G20 BEPS 2.0 Pillar One. Amount B

provides for fixed returns for in-scope in-country baseline marketing and distribution activities. See Tax Alert 2023-1568.

- In highly-anticipated regulations on **digital asset reporting** (REG-1122793-19), the IRS proposed to implement changes to IRC Section 6045 made by the Infrastructure Investment and Jobs Act in 2021, while also changing several other key regulations. The package adopts many of the longstanding concepts and terms that apply to sales of securities, including the reporting of a customer's tax basis and gross proceeds from a sale; it also redefines key terms and introduces new standards that apply uniquely to digital assets. See Tax Alert 2023-1513.
- The US IRS has ruled (Revenue Ruling 2023-14) that taxpayers using the cash-method of accounting must include the rewards from **cryptocurrency** staking in gross income in the year they gain control of the rewards. See Tax Alert 2023-1388.
- The US IRS released a guidance package to help taxpayers engaged in qualified **renewable energy projects** comply with the prevailing wage and apprenticeship requirements created by the IRA. The proposed regulations build on earlier guidance, allowing developers of renewable energy projects to increase qualified credits and deductions up to five times the base credit amount. Taxpayers could still qualify for the credits even if they did not comply with the requirements during project construction by making correction payments to workers and paying penalties to the IRS. See Tax Alert 2023-1469.
- The US IRS announced that it will focus its attention on **"high-income earners, partnerships, large corporations** and promoters abusing the nation's tax laws." Improved technology, including artificial intelligence, is being used to identify areas of noncompliance by large partnerships. The initiative could have significant implications for operating partnerships across various sectors and among private equity and alternative asset management funds, including hedge funds, credit funds, real estate funds, infrastructure funds and energy funds. See Tax Alert 2023-1512.
- On 8 August 2023, the US IRS Large Business & International Division announced a new compliance campaign focusing on taxpayers that give indications of inflating **cost of goods sold** (COGS) to reduce taxable income. While the IRS did not provide information indicating the specific focus of the campaign, the use of the term "inflated" may imply that the IRS is concerned about taxpayers recovering costs that cannot be capitalized to inventory through COGS. See Tax Alert 2023-1402.
- In final regulations (TD 9977) on split-waiver elections, the US IRS permits consolidated groups to waive carryback of consolidated **net operating losses** (CNOLs) that are attributable to an acquired member to pre-acquisition years during which the acquired member was a member of a former consolidated group. The final regulations apply to CNOLs arising in a tax year ending after 02 July 2020 but can be applied to any CNOLs arising in a tax year beginning after 31 December 2017. See Tax Alert 2023-1220.
- In PLR 202337007, the IRS ruled that a transaction in which a **disregarded entity** is converted into a domestic corporation will not cause a modification of debt previously issued by the entity under Treas. Reg. Section 1.1001-3. Accordingly, the transaction does not give rise to a taxable debt-for-debt exchange. The ruling clarifies the IRS's position, which has shifted over the past 20 years. See Tax Alert 2023-1590.
- In proposed regulations (REG-109348-22), the US IRS identifies monetized **installment sale transactions** as listed transactions under Treas. Reg. Section 1.6011-4(b)(2). Participants and material advisors involved in these transactions would be required to file disclosures with the IRS or face penalties. The IRS said it is concerned that taxpayers can use these transactions to defer recognizing income on the sale of appreciated property by allowing the taxpayer to receive the proceeds immediately and recognize the income at a future date through an installment plan with a third party. See Tax Alert 2023-1392.

Uruguay

- In Decree 271/023, Uruguay 's Executive Power extended the end date for the period during which a **reduced VAT rate** applies (13% rather than 22%) from 30 September 2023 to 30 April 2024. The Decree was published in the *Official Gazette* on 8 September 2023 and is in effect as of that date. See Tax Alert 2023-1553.
- Uruguay addressed the information technology (IT) sector through the enactment of Law No. 20,191 on 23 August 2023. Under this law, the Government provides **IT professionals** with the option to pay the nonresident income tax for income obtained in Uruguayan territory under employment contracts entered into between 30 August 2023 and 28 February 2025. See Tax Alert 2023-1502.

Venezuela

- On 1 July 2023, Decree No. 4,821 was published establishing the exoneration from the payment of the **Import Tax and VAT**, until 31 December 2023, in the following terms:
  - 90% to the definitive imports of tangible personal property, as applicable, made by the organs and entities of the National Public Administration, as well as those made with own resources by individual or corporations classified in the tariff codes indicated in the Decree. This benefit operates as of right.
  - Exoneration from definitive imports of tangible personal property made by the bodies and entities of the National Public Administration, as well as those made with their own resources, by individual or corporations, classified in the tariff codes indicated in the Decree. This exoneration is subject to the CNP or CNPI.
- On 10 August 2023, the **Master Law for the Coordination and Harmonization of the Tax Powers** of the States and Municipalities was published, among the most relevant aspects of the law are the following:

- All state and municipal taxes, as well as their accessories and sanctions, must be paid in bolivars. No state or municipal authority may proceed to collect taxes, accessories, or sanctions in foreign currency.
- The states and municipalities must use the Taxpayer ID (RIF) as an identifier for state and municipal taxpayers.
- The Higher Council for Tax Harmonization is a participation and consultation entity for the development of policies aimed at the coordination and harmonization of the exercise of the tax power of the states and municipalities and will be integrated by: (i) The Minister of the People´s Power with competence in matters of economy and finance, who will preside it; (ii) The highest authority of the SENIAT; (iii) three governors; (iv) three mayors.
- The rate of the municipal tax on economic activity may not exceed 3% of the gross income obtained. The annual taxable minimum may not exceed the equivalent in bolivars of 240 times the exchange rate of the highest value currency published by the CBV.
- The licenses or authorization for the exercise of economic activities subject to this Law, will have a term of at least three calendar years, counted from the date of its issuance.

- The Law will enter into force 90 continuous days after the date of its publication in Official Gazette.
- On 10 August 2023, four decrees were issued establishing **special and extraordinary socioeconomic regimes** to develop strategic economic activities in the defined areas. Legal entities that settle within the areas defined may benefit from income tax and custom tariff tax incentives. The areas are:
    - The Special Economic Zone of the Federal Dependency Isla La Tortuga
    - The Special Military Economic Zone No. 1 of the Aragua State
    - The Special Economic Zone of the Paraguaná Peninsula
    - The Special Economic Zone of La Guaira State

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