

Global Tax Alert

News from Americas Tax Center

Venezuela enacts equity tax

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Venezuela enacted the Constitutional Law Creating the Equity Tax (the Law), which was published in *Official Gazette No. 41.667* on 3 July 2019. The equity tax is effective as of that date.

Applicability

The tax will be levied on the net equity of certain taxpayers with equity over 36 million Tax Units (or US\$144,000) for individuals and 100 million Tax Units (or US\$400,000) for entities. The taxpayer's equity and liability for the tax will be determined on the last day of the tax period. The National Tax Administration will administer, collect and enforce the tax.

The following taxpayers will be subject to the tax:

1. Resident Venezuelan individuals or entities, including consortia, qualified as special taxpayers (high-income taxpayers), regardless of where the assets are located, or the assets' rights may be exercised
2. Nonresident foreign individuals or entities, including consortia, that qualify as special taxpayers (high-income taxpayers), and whose assets or exercise-related rights are in the national territory
3. Nonresident Venezuelan individuals or entities that qualify as special taxpayers (high-income taxpayers) and have assets or exercise-related rights in the national territory

For paragraphs 2 and 3, equity in a permanent establishment (PE) in Venezuela will be attributed to the individuals or entities with the PE, regardless of where the assets are located or where the rights to the assets may be exercised.

When an individual or entity without legal personality (e.g., consortia) or a nonresident has different centers of activity in Venezuela, the equity from those centers will be taxed jointly.

Attribution and allocation of the equity

The assets and rights will be attributed to the owner according to public records. Assets not subject to registration will be attributed to the possessor as follows:

- ▶ Property subject to financial leases between banks and other financial institutions will be attributed to the lessee.
- ▶ Property held in trust will be attributed to the beneficiary.
- ▶ Corporate assets that shareholders use personally will be allocated to the individual who uses the asset.

Once the equity has been declared, the ownership or possession of the assets is presumed for the tax periods following the declaration, unless there is proof of a transfer or loss.

Exempt entities

Among others, the following entities are exempt from this tax:

- i. Venezuela's Government and other territorial political entities
- ii. The Central Bank of Venezuela
- iii. Functionally decentralized entities (i.e., entities owned by the Government)

Additionally, a dwelling registered as a principal residence with the Tax Administration, up to a value of 64 million Tax Units (approx. US\$256,000), is exempt from the equity tax.

Tax base

The tax base is the sum of the total value of the assets and rights, determined according to the rules established in the Law, minus (i) the liabilities related to the assets and rights, and (ii) the value of tax-exempt assets and rights.

Valuation of assets and rights

For assets and rights that are not subject to a special valuation rule in the Law, the value is the current market price, or the updated acquisition price determined under the methodology established by the Tax Administration, whichever is higher.

The tax is calculated annually on the value of the net equity at the end of each period.

The tax rate is set at 0.25%. However, the Law permits the Executive Power to modify the tax rate between 0.25% to 1.50%.

The National Executive also may establish progressive tax rates based on the equity value.

Submission of information

Individuals and entities with assets valued at 150 million Tax Units (approx. US\$600,000) or more must declare them in the manner determined by the Tax Administration.

Taxpayers may register, file or deposit movable or immovable property before judges, registrars, notaries, financial institutions, insurance and reinsurance companies, brokerage firms, currency exchange offices, depositories, museums, galleries, jewelers and other public or private entities. The individuals or entities before which a taxpayer registers, files or deposits the property must submit information about the property to the Tax Administration, in the manner prescribed.

Tax Administration's duties

The Tax Administration may designate, as withholding or collection agents of the equity tax, entities with the ability to directly or indirectly withhold or collect the tax. However, entities involved in sales of shares made through the stock market are exempt from being withholding or collection agents.

The Tax Administration will deploy as many administrative control mechanisms as necessary for determining the accuracy of the information and values reported by the taxpayers in their declarations. The Tax Administration will determine and collect the amount of tax owed, when it has not been paid by the taxpayers or their responsible parties.

Summary of the main provisions

- ▶ The equity tax is not deductible from the income tax.
- ▶ Taxpayers subject to the equity tax may not use exemptions or benefits under other tax provisions to offset their equity tax liability.
- ▶ The Tax Administration, within 60 days of the Law's enactment date, will issue the rules and instructions necessary to calculate an asset's value (updated acquisition price) and implement the equity tax.

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