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Paraguay enacts new tax reform

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Paraguay enacted tax reform (Law No. 6380/19) on 25 September 2019. Although the Executive Power must still issue a regulatory decree with the law's effective date, the probable effective date will be 1 January 2020.

Income tax

Business income tax

The law replaces the income tax on commercial, industrial and service activities (IRACIS for its Spanish acronym) and the income tax on agricultural activities (IRAGRO for its Spanish acronym) with a 10% business income tax (IRE for its Spanish acronym) that will be applied under two regimes (general and simplified). The IRE is not, however, the simple merger of both taxes, as it brings new rules and eliminates others.

The IRE expands the definition of taxpayers to include "transparent legal structures," which are primarily trusts, investment funds and risk-sharing contracts. Accordingly, taxpayers subject to the IRE may be individuals, legal entities and transparent legal structures. A special regime would apply to transparent legal structures to prevent double taxation with the IRE.

The IRE will apply to income derived from investments abroad and income obtained from the Paraguayan taxpayer's performance of activities abroad.

Building a better working world

The law establishes that the accrual method is the method taxpayers should use to allocate income and expenses. The law establishes an exception to this rule for taxpayers engaged in agricultural or forestry activities.

The valuation of investments and fixed assets will continue to be governed by the application of indices. The law, however, will only require a revaluation of fixed and intangible assets when the change in the consumer price index (IPC, for its acronym in Spanish) is equal to or higher than 20%. Thus, taxpayers will no longer need to revalue fixed assets annually.

The law maintains the use of the cost of production or acquisition to value inventory. The Tax Administration, however, may establish other methods prescribed in IFRS. To align Paraguay's inventory provisions with modern legislation, the law eliminates the valuation method known as LIFO (last-in, first-out).

The definition of gross income includes the deduction of costs. The law clarifies that gross income constitutes the operations between related companies determined by following the transfer pricing methods applied internationally.

In terms of net income, the IRE establishes that taxpayers may deduct expenses if they are:

- Necessary to obtain and maintain the business
- "Real" payments
- Duly documented and had taxes withheld, if applicable
- Not higher than the market price, in specific cases

The law allows taxpayers to carry forward losses for five subsequent tax periods but limits the losses to 20% of net income for each future tax period. Previously, only losses from agricultural activity could be carried forward.

Transfer pricing

For the first time in Paraguay, the law establishes general transfer pricing rules based on the Organisation for Economic Co-operation and Development (OECD) standards, which include the international method known as the sixth method. Taxpayers must have a transfer pricing study prepared by a registered audit firm for operations between local and foreign related parties, only when one of them is not an IRE taxpayer.

Tax on dividends and earnings

The law establishes a tax on dividends and earnings (IDU for its Spanish acronym). The IDU will apply to earnings, dividends and revenue (hereinafter profits) made available or paid to the owner, the consortium, partners or shareholders of entities established by law, as well as the permanent establishments of entities incorporated abroad.

The IDU rate is 8% when the recipient of the profits is an individual, corporation or entity resident in Paraguay, and 15% when the beneficiary of these profits is a nonresident, including parent companies abroad.

Transitorily, the accumulated earnings of IRE taxpayers, generated in years before the effective date of Law No. 6380/19 and not capitalized or distributed, will be subject to a 5% IDU rate when their partners or shareholders reside in Paraguay, and a 10% IDU rate when the parent company, partners or shareholders are incorporated or reside abroad. This provision applies during the year in which the law is enacted, counted from 26 September 2019.

Cooperatives, mutual insurance companies and maquiladora companies are excluded from this tax. Maquiladora companies only will be subject to the unique tax established in the maquila law. The maquila law requires maquiladoras to pay 1% of their gross invoiced amount.

Personal income tax

Personal income tax (IRP for its Spanish acronym) is imposed on income from capital gains and income derived from the provision of personal services. The IRP rate on capital gains is 8%, while the IRP rate on income derived from personal services is 8%, 9% or 10%, depending on the taxpayer's net income.

Under the law, the tax bases for capital gains and income derived from personal services are separate. The tax liabilities also are determined separately.

Tax on the income of nonresidents

The law establishes a tax on nonresident income (INR for its Spanish acronym) that will be imposed on income, profits or benefits obtained by individuals, corporations and other nonresident entities in Paraguay from the provision of services or investments.

The INR rate is 15% and is imposed on the taxpayer's Paraguayan-source net income by applying presumptive bases of 30%, 50%, 70% and 100%.

The INR also applies to transfers of Paraguayan shares, even if a transfer is between two nonresidents.

Consumption tax

Value-added tax (VAT)

The law does not make substantial changes to the VAT. From now on, however, the law does not allow exporters of agricultural products to recover VAT tax credits related to the acquisition of goods (specific agricultural products).

The law also retains the VAT on real estate lease services with a 5% rate for housing leases and a 10% rate for all other property lease contracts.

Excise tax

The law increases excise tax rates for some pre-existing categories of goods.

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