Americas tax policy update

Q2 2020

Country

Argentina

- Several COVID-19 measures have been introduced in recent months. Those measures include: (1) the suspension of administrative tax procedure terms from 18 March 2020 to 17 July 2020, (2) the extension of tax return due dates (including certain informative regimes), (3) reductions and extensions of social security payments for business activities affected by COVID-19, (4) compensatory allowances for salaries (i.e., the portion of salaries paid by the Government) in business activities affected by COVID-19, provided certain conditions are met, and (5) special financing methods.
- Argentina's tax authorities issued long-awaited transfer pricing regulations that implement the transfer pricing provisions enacted as part of the tax reform in December 2017. The regulations apply to tax years starting 1 January 2018. The regulations cover transfer pricing compliance obligations, including the filing of the local and master files. The regulations also extended the due dates for the local and master files to August 2020 for years ended December 2018 to November 2019. For tax years ending from December 2019 to April 2020, the due dates for the local and master files were extended to October 2020. For more information, see Tax Alert 2020-1407.
- The Argentine tax authorities modified the annual informative regime under which local entities must provide certain information on their shareholders (or equivalents), related entities and other participations, as applicable, and individuals must report foreign participations, if any. Specifically, the modifications require local entities to report on an annual basis the "final beneficiary" of their shareholders (or equivalents), and local entities and individuals to report foreign entities that obtain passive income in which they have interests. For more information, see Tax Alert 2020-1040.
- The Argentine tax authorities extended the due date from 30 June 2020 to 31 July 2020 for small and medium-sized companies regulated by Law 27,541 to file for the tax amnesty program, which allows those companies to come into compliance with their tax filings and debts due up to 30 November 2019. Under the tax amnesty, interest is reduced and no penalties are imposed. The extension also applies to installment payments due on 30 April and 30 June. To allow more taxpayers to take part in the amnesty, a bill was proposed that would extend the program to all taxpayers (no longer only small and medium-sized companies) and to filings and debts still outstanding on 30 June 2020. Taxpayers would have to apply for the tax amnesty on or before 31 October 2020. Congress is expected to take up this bill soon.

Brazil

- On 21 July 2020, the Brazilian Government proposed a bill that would replace the PIS and COFINS (Social Security Contributions on Sales) with a new tax, the Contribution on Goods and Services (CBS for its Portuguese acronym), as its first phase of comprehensive tax reform. Like the PIS and COFINS, the CBS would apply to local sales, as well as imports, of goods and services. In the same manner, exports of goods and services remain exempt from the CBS. The bill, however, would include in services (especially imports of services) payments for licensing of rights and intangibles. The CBS would be levied at a flat rate of 12% on gross revenue (reduced by taxes due on revenue, such as the State Value Added Tax - ICMS, and the Municipal Service Tax — ISS, as well as unconditional discounts). It is intended to work as a federal value-added tax (VAT) in the sense that full input tax credit would be available. For more information, see Tax Alert 2020-1860.
- Brazilian Congressman João Maia proposed Bill 2,358/2020, which would establish an annual federal digital services tax called the Contribution for Intervention in the Economic Domain — Digital (CIDE-Digital). Similar to the digital services taxes introduced in many European countries and by members of the Organisation for Economic Co-operation and Development (OECD), the CIDE-Digital would be targeted at large digital groups whose annual worldwide gross revenue and local gross revenue exceed R$ 3 billion and R$ 100 million, respectively. The CIDE-Digital would be levied on gross revenues derived from:
  - Placing advertisements on a digital platform targeted at Brazilian users of that interface (i.e., digital-targeted advertising)
  - Making online platforms and multi-sided digital interfaces available to allow users to interact for purposes of facilitating the marketing of goods or services to those users (at least one user must be located in Brazil)
  - Transmitting data collected about users and generated by users' activity on digital interfaces
- For more information, see Tax Alert 2020-1246.
- Brazil enacted Law 13,988/2020, establishing a federal tax debt negotiation program. Provisional Measure 899/2019, which first introduced the program on 17 October 2019, has now been converted into law. For more information, see the Americas Tax Policy Update from Q4 2019.
- The Brazilian Superior Court of Justice (STJ for its Portuguese acronym) ruled that service income received by French companies rendering technical services in Brazil, without a permanent establishment, are not subject to withholding tax in Brazil. The STJ found that Article 7 of the double tax treaty between France and Brazil applies to technical service income. For more information, see Tax Alert 2020-1470.

Canada

- The Canada Revenue Agency (CRA) updated the information on filing extensions and other administrative measures in light of COVID-19. With respect to enhanced international information reporting and common reporting on standard information returns, filers will be allowed to defer, without penalties or interest, the filing of required information returns until 1 September 2020. In addition, no penalty will apply for any failure to obtain a self-certification on financial accounts opened before 1 January 2021. Additionally, requests for contemporaneous transfer pricing documentation made prior to 1 April 2020 having a deadline of 18 March 2020 or later will be considered cancelled and will be reissued at a later date, providing the maximum three months to submit the documentation. For more information, see Tax Alert 2020-1069.
- The CRA published guidance on 19 May on various international income tax issues resulting from COVID-19-related restrictions on travel and CRA service interruptions. The administrative guidance addresses concerns raised by taxpayers and their representatives and covers the following Canadian income tax topics:
  - Income tax residency
  - Carrying on business in Canada and permanent establishments
  - Cross-border employment income
  - Waiver requests relating to payments to nonresidents for services provided in Canada
  - Dispositions of taxable Canadian property by nonresidents of Canada
- The temporary measures outlined in the guidance will apply from 16 March to 29 June 2020 but may be extended if necessary or rescinded if no longer required. For more information, see Tax Alert 2020-1343.
- On 25 May and 1 June 2020, the CRA released an update on tax return filing deadlines for corporations, trusts and partnerships. For corporations that would have otherwise had a filing due date of 31 May 2020, or in June, July or August 2020, the T2 return filing due date has been extended to 1 September 2020. Consequential to the extension of the T2 filing due date to 1 September 2020, any transfer pricing contemporaneous documentation that would otherwise have been due on 31 May 2020, or in June, July or August 2020, will now be due on 1 September 2020. Unless otherwise noted by the CRA, other information returns (such as Form T1134, *Information Return Relating to Controlled and Not-Controlled Foreign Affiliates*), elections, designations and information requests that were due on 31 May 2020, or in June, July or August 2020, will also now be due on 1 September 2020. For more information see Tax Alert 2020-1443.
- The Department of Finance Canada (Finance Canada) announced on 6 May that it would waive tariffs on certain medical goods, including personal protective equipment (PPE), such as masks and gloves. As PPE imported into Canada may face tariffs as high as 18% ad valorem, the waiving of tariffs will significantly reduce the cost of importing PPE into Canada. Furthermore, Finance Canada has stated that tariff relief on these goods will remain in place for as long as necessary to deal with the COVID-19 crisis. For more information, see Tax Alert 2020-1261.
- On 11 April 2020, the Canada Emergency Wage Subsidy

(CEWS), as part of Bill C-14, received Royal Assent. The CEWS provides a 75% wage subsidy to employers that have suffered a drop in gross revenues of at least 15% in March and 30% in April, May, June, July or August when compared to the same months in 2019 (or alternatively, compared to the average revenue in January and February 2020). Employers of all sizes across all sectors of the economy (including non-profit organizations, registered charities and eligible partnerships), with the exception of public institutions, are eligible for the CEWS. Public companies and foreign-headquartered companies that employ employees in Canada also may qualify. To receive the subsidy, employers must file an application on or before 30 September 2020. The application is made through the CRA's web portal (My Business Account). For more information, see Tax Alerts 2020-0980 and 2020-1335.

- On 8 July 2020, federal Finance Minister Bill Morneau delivered a 2020 Economic and Fiscal Snapshot highlighting the more than $230 billion in economic measures introduced to support individuals and businesses impacted by the COVID-19 crisis. For more information, see the Department of Finance snapshot and Tax Alert 2020-1747.
- On 13 July 2020, Prime Minister Trudeau announced that the CEWS would be extended to December 2020. Further details, including any changes in eligibility requirements, are expected to be announced shortly.

Chile

- The VAT on digital services provided by foreign service providers went into effect on 1 June 2020. Foreign service providers must register for the simplified VAT regime on the IRS's Digital Services Portal and choose the period (each month or every three months) in which they will pay the VAT. Failure to report and pay the VAT may result in penalties. For more information, see Tax Alert 2020-1453.
- Chile enacted employment measures to mitigate the spread of COVID-19. Under the measures, if the Government enacts a mandatory quarantine, curfew or other restrictions that make it impossible for a company to conduct its activities and its employees cannot perform their services, a mandatory employment suspension will be triggered. While the suspension is in place, the company does not have to pay remuneration to its employees. Companies that are not completely locked down as result of Government-imposed restrictions but are still impacted by the COVID-19 situation may agree to suspend their employment contracts. Like companies that are completely locked down, these companies will not have to pay remuneration to their employees or pay for benefits, and the employees will not have to provide services. Companies, however, will have to continue paying social security contributions, including the employee portion, with the exception of work accident and disease insurance coverage. Companies may negotiate reduced work schedules with their employees and a proportional decrease in remuneration if they are: (1) subject to VAT and have decreased sales of more than 20% in three months, (2) under an insolvency procedure (i.e., a restructuring under the bankruptcy procedure), or (3) excluded from the lockdown but still need to reduce working hours to continue functioning. For more information, see Tax Alert 2020-0978.
- On 14 June 2020, the Government announced a second economic package consisting of a two-year $12 billion economic stimulus package to assist citizens and companies with the effects of the coronavirus outbreak. The package is still under discussion in Congress.

Colombia

- In response to the ongoing COVID-19 pandemic, Colombia issued Decree 637, extending the country's declaration of a state of emergency. This measure is intended to control the COVID-19 outbreak and provide timely regulation. Although this is not a tax measure per se, it grants power to the Government to make decisions on taxes and other matters. With the extension of the state of emergency, Colombia established additional tax measures to ease the burden on taxpayers (see Tax Alert 2020-1538). These measures include:
  - Extending the due date for micro, small and medium-sized companies to pay the second corporate income tax installment. The second-installment payments were previously due from 1 June 2020 to 1 July 2020 (depending on the last two digits of the taxpayer's identification number). Under the decree, the due date is 9 November to 7 December 2020 (depending on the last two digits of the taxpayer's identification number).
  - Establishing a VAT exemption for 19 June, 3 July and 19 July 2020 on certain goods, including electronic devices such as televisions, tablets, laptops and other communication equipment. However, this benefit is only applicable for goods with a value under 80 tax units (approx. COP2,800,000 or US $700).
  - Creating a payroll subsidy to help micro, small and medium-sized companies meet their payroll expenses. Companies interested in this program, however, must prove that their income has decreased because of COVID-19, as well as meet other criteria.
- The tax measures previously established by the Government remain in effect. For instance, entities that enter into a reorganization or execute a reorganization plan (similar to a Chapter 11 process) will not be subject to income tax withholding or self-withholding through 31 December 2020. Additionally, those entities will be subject to VAT withholding of 50% of the usual rate (e.g., if the general 19% VAT rate applies, the withholding tax to be applied is 9.5%) until 31 December 2020. The Government also reduced the investment amount for applying for the mega investment regime from 30 million tax units (approx. US $267 million) to 2 million tax units (approx. US $18 million) for taxpayers that invest in Colombian air transportation. The mega investment regime benefits include a reduced income tax rate of generally 27% instead of 32%, a two-year depreciation period and no 10% dividend tax. Additionally, the Government established a new "solidarity tax" that applies from 1 May 2020 to 31 July 2020. The solidarity tax applies to public officers and individuals contracted by the Colombian Government (at the central and local level), as well as to retired employees, with a monthly salary, remuneration or pension of more than COP10 million (approx. US $2,500). The tax will be progressive, with rates ranging from 15% to 20%, and will be collected via withholding tax. For more information,

see Tax Alert 2020-1091.

- The Government issued Decree 963 to regulate automatic refunds to certain entities (e.g., those that represent a low risk to the tax authority, those that can credit input VAT on electronic invoices, etc.). The tax authority will have up to 15 business days to resolve automatic refund requests.
- The Colombian Government issued Colombian holding company (CHC) regime regulations (see Tax Alert 2020-1280). The regulations clarify the scope of the eligibility requirements and establish the procedure for applying for the CHC regime, including the supporting documentation companies must attach to the request submitted to the National Tax Authority. The CHC regime provides a tax exemption for certain revenue to qualifying entities. Additionally, the tax authorities issued Resolution 49, reducing the threshold for companies to request the application of the CHC regime because of the COVID-19 pandemic. During the health crisis, Colombian entities that wish to apply the CHC regime may email the required documentation to the tax authorities to activate the CHC regime. The requesting entity must also submit physical copies of the documents to the tax authorities within 60 days of the end of the health crisis (as declared by the Ministry of Health).
- On 28 April 2020, the OECD announced that Colombia had formally completed the accession process to become the 37th OECD member. Colombia is now the third country from Latin America to join the OECD, following Chile and Mexico. For more information, see Tax Alert 2020-1223.
- The tax authorities issued regulations to implement electronic invoicing. The regulations set forth the technical parameters for electronic invoices, as well as guidelines on how companies may use electronic invoices in their daily operations.
- The Government created geographical areas in which a tax deduction may be claimed for creative activities performed. Companies that invest in creative projects may claim a tax deduction for the investments as outlined in Article 180 of Law 1955 of 2019.
- The Superior Judicial Council suspended certain judicial proceedings from 16 March 2020 to 1 July 2020. Additionally, the Council established other measures to protect officers within the judicial branch (such as electronic procedures).
- The Government modified the applicable default interest rate, created abbreviated methods for obtaining payment agreements, and modified legal terms for conciliations and mutual agreement termination requests for judicial and administrative processes.
- Bogota extended the deadline for paying the real estate property tax (*impuesto predial* in Spanish) by modifying its tax calendar.
- The tax authorities issued Resolution 55, lifting the suspension on administrative procedures. Thus, administrative procedures resumed on 2 June 2020.

Costa Rica

- The OECD announced that Costa Rica has formally been invited to become the 38th member of the OECD, after completing the accession process. Costa Rica will be the fourth country from Latin America to join the OECD, following Chile, Mexico and Colombia. For more information, see Tax Alert 2020-1326.

Dominican Republic

- To ease taxpayers' burden during the COVID-19 pandemic, the Government established certain measures, including:
  - Creating the Fund of Solidary Assistance to Employees to provide bank transfer payments to workers in the private sector
  - Allowing taxpayers with installment agreements expiring in April, May and June 2020 to defer their payments for three months
  - Exempting certain taxpayers from making advanced tax payments for the March 2020 tax period
  - Allowing taxpayers to amend tax returns for VAT purposes for the 2019 and 2020 tax periods
  - Extending the due dates for filing returns and making tax payments for the April 2020 tax period related to withholding taxes, fringe benefits, the asset tax, income tax for individuals and the simplified tax regime
  - Temporarily suspending the VAT on the importation and national sale of materials and equipment necessary to combat the COVID-19 pandemic
  - Extending for 30 calendar days the due date for filing informative returns for tax periods affected by the shutdown as a result of the state of emergency and the COVID-19 pandemic
- The Dominican Republic tax authorities (DTA) and the Social Security Treasury (SST) informed all taxpayers that make contributions to their suspended employees, regardless of whether the contributions are made under the Fund of Solidarity Assistance of Employees, that they may make the contributions, as well as the income tax withholdings on salaries, through the SST's virtual system.
- The DTA informed income taxpayers that the provisions of Notice 37-20 are in effect for May 2020 income tax obligations. Therefore, all income taxpayers that are required to make monthly income tax advance payments are exempt from making the advance payment due on May 15, 2020 for the April 2020 tax period. The DTA is allowing all individuals required to file the income tax return for individuals (IR-1) for the 2019 tax year to pay in four equal, consecutive monthly installments.
- Because the state of emergency was extended, the DTA extended the due date for certain payments and returns related to the May 2020 tax period. Specifically, the DTA extended from 29 June 2020 to 29 July 2020 the due date for the payment of the income tax and filing of the income tax return for entities, as well as the payment of the assets tax and filing of the assets tax return for tax year 2019. Additionally, the DTA extended the due date for filing the annual informative return for operations between related parties to 29 July 2020.
- To facilitate the filing of returns and the payment of taxes, the DTA informed taxpayers that modifications to tax returns may be made virtually.

- The Board of Directors of the Dominican Institute of Telecommunications issued Resolution No. 035-2020, establishing rules for the application of Law 126-02 to electronic commerce, documents and digital signatures for tax procedures. This resolution was issued in response to the recent implementation of electronic tax invoices. The resolution simplifies the tax procedures before the DTA by conforming the procedures to international practices.

Ecuador

- After proposing a bill that would have established a new 5% tax on an entity's profits of US $1 million or more to fund humanitarian support in light of COVID-19, the President requested that the National Assembly not consider the new tax. For more information on the proposal, see Tax Alert 2020-1096.

El Salvador

- Congress approved Legislative Decree 643, extending the due date for filing income tax returns and paying the income tax for the 2019 tax year. It also extended the due date for complying with certain tax obligations for the 2020 tax year. The tax authorities will not impose interest, surcharges or penalties if the taxes are paid and the tax obligations are satisfied by the extended due dates.
  - Large taxpayers that filed returns and paid the special contribution for the Citizen Security Plan for the 2019 tax year after the original deadline (30 April 2020) and before the extension was approved (15 May 2020), or those who filed the return and did not pay the special contribution, will not pay interest, surcharges or penalties on the late payment.
  - Large taxpayers may modify their original filed returns to pay the special contribution or any additional special contribution amount without the imposition of interest, surcharges or penalties.
  - Taxpayers classified as other or medium-sized entities are exempt from paying estimated income tax for April, May and June 2020. However, taxpayers must pay the withholding amounts applied during those months and file the corresponding returns.
  - Tax reports and other formal obligations
    - Taxpayers have two months beginning on the date the decree entered into force (15 May 2020) to file tax reports or comply with other tax obligations that were due 30 April 2020.
    - Taxpayers that filed tax reports or complied with tax obligations after the original due date (30 April 2020) and before the extension was approved (15 May 2020) will be exempt from penalties.
    - Taxpayers also have two months to comply with formal obligations (e.g., filing reports or informative forms) not related to tax payments or settlement of tax credits or balances in favor related to taxes (e.g., income tax, VAT, excise tax) or customs that were due from 1 March 2020 to 31 July 2020.
    - Taxpayers may designate a tax auditor for tax year 2020 no later than 31 July 2020.
    - Taxpayers may file the tax audit report and its annexes for tax year 2019 no later than 31 July 2020.
- Taxpayers subject to Legislative Decree 598 (Special and Transitory Law on the Method of Payment of the Income Tax Applicable to Small Taxpayers, Tourism, Electric Power, Television, Internet and Telephone Services, and on the Special Tax for the Promotion of Tourism) may request an installment payment plan with the General Treasury Directorate as set out in Legislative Decree 643 or may request that a current installment agreement be restructured.
- Penalties and interest paid before Legislative Decree 643 entered into force because the taxpayers filed the income tax return late or paid the income tax or special contribution for the Citizen Security Plan late for tax year 2019 may be credited against the income tax or special contribution for tax year 2020. Taxpayers must request authorization from the General Internal Taxes Directorate to credit the amounts paid as penalties and interest.

Guatemala

- Decree 12-2020, which entered into force on 1 April 2020, exempts all imports received as donations by the Coordinating Entity for Disaster Reduction (CONRED), churches, organizations and charitable associations duly authorized and registered in the Registry of Legal Entities of the Ministry of Governance from VAT and customs duties, while the State of Public Calamity and its measures are in force. Also, the decree allows taxpayers subject to the solidarity tax obligations to defer the payment of the tax for the second quarter of 2020. Taxpayers will have until 30 September 2020 to pay the tax without generating any penalty, fine or surcharge. However, taxpayers benefiting from this measure cannot lay off workers until the payment is completed. Additionally, Decree 12-2020 also extends all administrative deadlines for public entities for three months, with certain exceptions. However, the tax authorities continue to receive solidarity tax filings from taxpayers, which means that a case-by-case analysis is required to determine the applicability of the solidarity tax extension.
- On 20 April 2020, the Government published in the Official Gazette Agreement 1472 of the Guatemalan Social Security Institute, in which it suspends social security contributions by private-sector employers for March, April and May, and provides the following payment options for those contributions:
  - Make the payment by the original due date
  - Defer payment to July, August and September 2020
  - Make the payments in 18 installments beginning July 2020
- The workers' portion of the social security contributions must continue to be deducted as usual and must be transferred to the Guatemalan Institute of Social Security (IGSS for its Spanish acronym) through the corresponding electronic platform.
- The IGSS issued Ruling No. 672-SGF/2020, which establishes the "Instructions for the deferred payment of the Guatemalan Institute of Social Security (IGSS), Recreation Institute of

Employees (IRTRA) and Technical Institute for Training and Productivity (INTECAP) contributions." The instructions establish that the payments deferred for March, April and May must be made no later than 20 July and 20 August 2020. For September 2020, the payment must be made no later than the 21st. The instructions also indicate that the payment of IRTRA fees for March, April and May also may be deferred for up to 18 months and INTECAP fees for those same months may be deferred for up to six months.

- On 27 April 2020, the bill for the Law on Temporary Tax for the Coverage of the COVID-19 Pandemic was proposed. It would include a temporary tax to fund the Government's response to COVID-19. The taxable base would be 20% of monthly salaries greater than Q15,000, after the tax and social security withholdings have been made, and would apply exclusively to certain officials and public servants of the Executive, Legislative and Judicial branches. The bill would be effective for a three-month period beginning the month following the month in which the bill is enacted. Congress may amend the bill before enactment.
- The bill for the Extraordinary Crisis Contribution Law was proposed. It would modify the income tax rates established in the Income Tax Law through Decree 10-2012 as follows:
  - For profits from business activities, the bill would establish: (1) a 25% tax rate on the net annual income that does not exceed Q5,000,000.00 (approximately US $641,025.64); and (2) a 30% tax rate on the excess of Q5,000,000 plus a fixed amount of Q1,250,000.00 (approximately US $160,256.41).
  - For the simplified optional regime, the bill would establish: (1) a 5% tax rate on monthly taxable income from Q0.01 to Q30,000.00 (approximately US $3,846.15); (2) a 7% tax rate on monthly taxable income that is over Q30,000. 00 but less than or equal to Q60,000.00 (approximately US $7,692.30) plus a fixed amount of Q1,500.00 (approximately US $192.30); and (3) a 10% tax rate on the excess of Q60,000.00 plus a fixed amount of Q3,600 (approximately US $461.53).
  - For the labor income regime, the bill would establish: (1) a 5% tax rate on annual taxable income from Q0.01 to Q300,000.00 (approximately US $38,461.53); (2) a 7% tax rate on monthly taxable income from Q300,000.01 to Q600,000. 00 (approximately US $76,923.07) plus a fixed amount of Q15,000.00 (approximately US $1,923.07); and (3) a 10% tax rate on the excess of Q600,000.00 plus a fixed amount of Q36,000 (approximately US $4,615.38).
- Congress could amend or reject the bill before it is enacted.
- On 12 May 2020, a bill was proposed that would allow individuals or legal entities that are unable to pay the annual vehicle circulation tax due in July 2020 to pay the tax in August, September or October 2020, depending on the year and model of the vehicle. Additionally, a bill was proposed that would repeal the Solidarity Tax Law. Congress could amend or reject these bills before they are enacted.

Honduras

- No tax policy developments are available for this quarter.

Mexico

- The Mexican Tax Administration Service (SAT for its Spanish acronym) published amendments to the temporary regulations for 2020 that include additional regulations on the new obligation for foreign digital service providers to register, collect and remit VAT in Mexico. These new obligations were included in the 2020 tax reform and went into effect on 1 June 2020. The new regulations clarify that monthly returns and tax payments will be due on the 17th day of the month following the month subject to tax, which is consistent with general Mexican due dates for compliance obligations. The SAT will post a guide for completing the return on its website. For more information, see Tax Alert 2020-1275.
- Baja California's Congress enacted Legislative Opinion No. 65, which establishes a new emissions tax that replaces the tax on the first sale of gasoline and other crude oil derivatives that was effective 1 January 2020. The legislative opinion also repeals the tax on the sale of gasoline and other crude oil derivatives applicable for tax year 2020. The emissions tax applies to entities and individuals with installations or a "fixed place of business" in Baja California where goods (e.g., gasoline, diesel, natural gas and liquified petroleum gas) that generate pollutants are sold to final consumers. For more information, see Tax Alert 2020-1244.

Nicaragua

- No tax policy developments are available for this quarter.

Panama

- In light of COVID-19, the Panamanian Government issued several tax measures to ease the burden on taxpayers. Those measures include:
  - The Social Security Authority issued Resolution 383-2020-DG of 2020, suspending the imposition of penalties, interest and surcharges for the late payment and filing of the monthly payroll for the February, March, April and May tax periods.
  - The Panamanian Government issued Executive Decree 298 of 2020, which amends Executive Decree 251 of 2020 to further extend the due date for individuals and entities to file the income tax return for tax year 2019 from 30 May 2020 to 17 July 2020. Also, the decree extends the due date for filing the transfer pricing report for tax year 2019 from 30 June 2020 to 30 September 2020.
  - The tax authorities issued Resolution 201-2406 of 2020, which exempts certain taxpayers from the requirement to use fiscal equipment (i.e., equipment that processes, records, issues and electronically stores tax receipts and non-tax documents generated as a result of the sale of goods or the provision of services) if they cannot use the fiscal equipment because their commercial establishments closed due to the COVID-19 pandemic.
  - The tax authorities issued Resolution 201-2416 of 2020, extending the due date to 15 July 2020 for filing VAT returns for March, April, and May 2020.
  - The tax authorities issued Resolution 201-2752 of 2020,

extending the due date to 31 July 2020 for filing the payroll form 03 for tax year 2019. Usually, taxpayers must submit this form within the first five months following the tax-year end.

Paraguay

- No tax policy developments are available for this quarter.

Peru

- In light of the COVID-19 crisis, Peru's Executive Power issued Legislative Decree 1481, which extends from four years to five years the period for which 2020 losses may be carried forward to offset 100% of profits. Legislative Decree 1481 went into effect on 9 May 2020. For more information, see Tax Alert 2020-1257.
- Peru's Executive Power enacted Supreme Decree 085-2020-EF, which requires taxpayers to use one of four methods to determine the market value of shares of the resident entity and the nonresident entity in indirect transfers of shares, either for transactions with related or unrelated parties. For more information, see Tax Alert 2020-1133.
- Peru established special depreciation rules that allow taxpayers to claim more depreciation for certain assets. Under the special depreciation regime, taxpayers may claim 20%, instead of 5%, depreciation for buildings and construction if: (1) construction started on or after 1 January 2020; and (2) at least 80% of the construction is completed as of 31 December 2022. The 20% depreciation also may apply to assets acquired by taxpayers in tax years 2020, 2021 and 2022, provided the assets meet the requirements for the 20% depreciation. The 20% depreciation, however, will not apply if the assets have been totally or partially built before 1 January 2020. The annual depreciation percentages are increased for other assets as well. For more information, see Tax Alert 2020-1287.
- Peru´s Executive Power issued Legislative Decree No. 1471 to establish new rules for determining monthly income tax payments from April to July 2020. The decree also allows taxpayers to elect to suspend or reduce those payments, provided certain requirements are satisfied.
- On 10 May 2020, the Government published Legislative Decree No. 1487, which allows taxpayers to defer tax debts (DFR Regime). The decree allows taxpayers to defer tax debts due with the income tax return, including any outstanding previously deferred amounts or installment payments. To qualify for the DFR Regime, taxpayers must submit a request on the form and in the manner prescribed by the tax authorities.
- Peru's Executive Power issued Supreme Decree 086-2020-EF, modifying the requirements for deducting "wasted goods" for income tax purposes. Previously, taxpayers had to notify the tax authorities at least six days before wasted goods were destroyed. Under the Supreme Decree, the taxpayer must notify the tax authorities at least two business days before the date the wasted goods will be destroyed before a public notary or a judge. For more information, see Tax Alert 2020-1135.

Puerto Rico

- The Governor of Puerto Rico signed Act 40-2020 into law, making various technical amendments to the 2018 Puerto Rico tax reform (Act 257-2018) and to the Incentives Code (Act 60-2019). The amendments to the Puerto Rico Internal Revenue Code, as amended, include (1) modifications to the definition of being engaged in a trade or business in Puerto Rico, (2) additions to the definition of merchant for sales and use tax (SUT) purposes, and (3) modifications to the alternative minimum tax and basic alternative tax rules. Act 40-2020 also changes the due date of tax returns for entities with a tax holiday decree and insurance companies and increases the threshold for audited financial statements from $3,000,000 to $10,000,000, among other things.
- The Governor also signed Act 57-2020, which establishes various COVID-19 related measures, including the introduction of carrybacks, automatic compliance with certain conditions in tax holiday decrees, and a SUT exemption for professional designated services and services rendered to other merchants from April through June 2020, among other things.
- Through various Administrative Determinations and Circular Letters, the Puerto Rico Treasury Department (PRTD) established various COVID-19 relief measures, including (1) a temporary SUT exemption for prepared foods and basic need articles, and (2) extensions of Internal Revenue licenses. The PRTD also allowed distributions from qualified retirement plans or Individual Retirement Accounts to help with expenses incurred as a result of COVID-19 and set forth procedures for applying outstanding overpayments or credits to other taxes owed by the taxpayer, among other things.

United States

- The Internal Revenue Service (IRS) and US Treasury Department continue to implement economic stimulus legislation related to the COVID-19 pandemic, most notably the $2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on 27 March. Among the business tax topics addressed in the IRS guidance and "frequently asked questions" (FAQs) are:
  - Issues related to the carryback of net operating losses (NOLs)
  - Changes to the rules governing corporate alternative minimum tax (AMT) credits
  - The employee retention tax credit, a refundable tax credit against certain employment taxes equal to 50% of the qualified wages an eligible employer pays to employees after 12 March 2020 and before 1 January 2021 (enacted as part of the CARES Act)
  - Extended tax filing and payment deadlines
  - New tax credits for required paid leave that reimburse small and mid-size employers for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19 (enacted as part of the Families First Coronavirus Response Act)
- On 2 July, the IRS issued proposed regulations and temporary

regulations providing guidance for consolidated groups regarding NOLs. The proposed regulations provide guidance on the application of the 80% limitation, among other issues. Because the CARES Act allows certain NOLs to be carried back five years, the temporary regulations allow certain acquiring consolidated groups to make an election to waive all or a portion of the pre-acquisition portion of the extended carryback period for certain losses attributable to certain acquired members.

- Under IRS Notice 2020-23, almost all taxpayers with a filing or payment deadline on or after 1 April 2020 and before 15 July 2020 were given an extension until 15 July 2020 to file returns and make payments without penalties or interest. The Notice also extended deadlines for fiscal-year filers, estimated tax payments and the deadline for certain Tax Court filings and the time for filing refund claims.
- The IRS has encouraged taxpayers to use electronic options for filing to speed processing, as many IRS services were limited or suspended until early June, when the IRS began to bring employees back to work. The IRS announced on 13 April that taxpayers could temporarily file by fax Form 1139 (refunds for corporations) and Form 1045 (refunds for individuals, estates, and trusts) to claim refunds under the NOL carryback and AMT credit acceleration provisions of the CARES Act.
- **Legislative developments.** On 24 April, Congress enacted interim legislation providing an additional $484 billion in funding for the so-called Paycheck Protection Program's (PPP) small business loans, for hospitals and for COVID-19 testing.
  - On 4 June, Congress enacted another bill that modified the PPP, extending the loan forgiveness period from eight to 24 weeks, reducing from 75% to 60% the portion of the loan that businesses must devote to payroll costs, and allowing businesses to defer payroll tax payments if they receive a PPP loan, among other changes. On 8 July, another bill extended the deadline for accepting PPP loan applications until 8 August.
  - Another fiscal stimulus package is likely, although the details and timing have yet to be determined as the House and Senate have different legislative priorities. On 15 May, the Democratic-controlled House passed the $3 trillion Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, but the Republican-controlled Senate is not expected to take up the entire House bill. Among other changes, it would enhance the CARES Act's employee retention credit, increasing the percentage of wages reimbursed from 50% to 80%, and increasing the wage limit from $10,000 per year to $15,000 per quarter, with an annual maximum of $45,000.
- **TCJA updates.** The US Treasury Department issued the following significant regulations related to the TCJA:
  - Final regulations (TD 9902) under IRC Section 951A permitting a taxpayer to elect to exclude from its inclusion of global intangible low-taxed income (GILTI) items of income subject to a high effective rate of foreign tax, and proposed regulations under IRC Section 954(b)(4) (REG-127732-19) that would conform the subpart F income "high-tax exception" to the finalized GILTI high-tax exclusion.
  - Final regulations (TD 9901) under IRC Section 250, which allows an annual deduction to a domestic corporation for its foreign-derived intangible income (FDII) and GILTI inclusion. The final regulations retain the basic approach and structure of the proposed regulations but contain several significant, and mostly taxpayer-favorable, changes, including relaxing some documentation rules. See Tax Alert 2020-1795.
  - Final regulations (TD 9896) on hybrid mismatch rules under IRC Sections 267A and 245A(e) and rules for dual consolidated losses and entity classifications. The final regulations address hybrid and branch arrangements, long-term deferrals of income inclusions and conduit financing arrangements. The accompanying proposed regulations (REG-106013-19) provide guidance on hybrid deduction accounts under IRC Section 245A(e), conduit-financing rules involving equity interests, and the treatment of certain payments under the GILTI provisions. See Tax Alert 2020-0954.
  - Proposed regulations (REG-104591-18) limiting the deductibility of 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) and on the related reporting requirements under IRC Section 6050X. See Tax Alert 2020-1315.
- Other regulations.
  - Final regulations (TD 9897) providing guidance on applying the IRC Section 385 regulations to qualified short-term debt instruments, transactions involving controlled partnerships and transactions involving consolidated groups. See Tax Alert 2020-1307.
- **Tax policy developments.**
  - US Treasury Secretary Mnuchin rejected European finance ministers' proposal for a phased approach to new nexus and profit allocation rules under Pillar 1 of the OECD BEPS 2.0 project that would yield new rules applicable only to digital businesses in 2020, with work on more broadly applicable rules to continue. On 12 June, he called for a pause in OECD negotiations on Pillar 1, with a view to resuming discussions later in 2020. He noted that countries are much closer to an agreement on global minimum tax rules under Pillar 2 and indicated the US supports agreement on Pillar 2 this year.

Uruguay

- Uruguay enacted Law No. 19,874, creating the "COVID-19 Solidarity Fund," which is intended to mitigate the negative effects of the COVID-19 pandemic by creating a new tax called the "COVID-19 Sanitary Emergency Tax" to fund the Solidarity Fund. The new tax applies to income received by individuals performing services for the government under a contract. The tax rate ranges from 5% to 20%, depending on the individual's gross income. The tax applies for income derived in April and May 2020. For more information, see Tax Alert 2020-1075.

- Uruguay's Executive Power issued a decree that allows certain medical supplies to be imported tax free. In a resolution, Uruguay established that certain humanitarian aid products may be imported and exported tax free. For more information, see Tax Alert 2020-1160 and Tax Alert 2020-1082.
- The Uruguayan Director of Free Trade Zone Area issued a resolution extending the period to 10 April 2020 during which free-trade-zone (FTZ) workers may work remotely because of COVID-19. For more information, see Tax Alert 2020-0813.
- The Uruguayan tax authorities extended return filing and tax payment due dates because of COVID-19. The due dates are extended for the corporate income tax (CIT), net wealth tax, corporation control tax and notional dividends. The extensions apply to all taxpayers, except large taxpayers. For more information on the due dates, see Tax Alert 2020-1116.
- Uruguay's Ministry of Economy and Finance submitted a bill to the General Assembly that would reduce the rural real estate contribution rate from 1.25% to 1.025% for 2020. The reduction would apply to taxpayers that do not own more than 1,000 hectares of rural real estate and use that property for agricultural purposes. For more information, see Tax Alert 2020-1149.
- On 29 April 2020, Uruguay enacted a law that suspends for one year beginning May 2020 the tax credit for holders of property used for agricultural purposes. According to the law, the suspension of the credit is intended to help fund the COVID-19 Solidarity Fund. For more information, see Tax Alert 2020-1210.
- Uruguay's Executive Power submitted a bill to the Uruguayan Parliament that would add a new donation to the special donations list. Specifically, the bill would add donations made by corporate income taxpayers to Uruguayan resident individuals who must go abroad to participate in medical studies or have certain treatments. For those donations to be considered special donations, the Ministry of Public Health must determine that it is impossible for the studies or treatment to be conducted in Uruguay because of their complexity or due to the lack of technical knowledge or experience. For more information, see Tax Alert 2020-1340.
- Uruguay's Executive Power issued Decree No. 129/020, which modifies Decree Nos. 355/011 and 34/017 by changing the requirements for real estate property to be considered social interest housing (i.e., low-income housing) and, therefore, subject to tax benefits. The decree increases the CIT exemption for rental income from 40% to 60%, depending on the location of the home. For homes acquired that will be rented in the future, the CIT, personal income tax and nonresident income tax exemptions for the income received from the leases will increase from 40% to 60% depending on the location of the home. For more information, see Tax Alert 2020-1478.
- Uruguay's Executive Power has issued Decree No. 138/020, establishing tax incentives for the construction of private initiative urbanization developments and the construction of buildings intended to be leased or sold as offices or homes. For more information, see Tax Alert 2020-1613.
- Uruguay's Executive Power issued a decree establishing tax incentives to stimulate investment in Uruguay. The decree establishes tax incentives for investments made from 1 April 2020 to 31 March 2021. For more information, see Tax Alert 2020-1630.
- Uruguay's Executive Power issued Decree No. 163/020, establishing additional conditions under which individuals may claim tax residence based on their economic interests in Uruguay. The conditions include the individuals having investments in real estate located in Uruguay under certain conditions or in companies that generate employment in Uruguay. For more information, see Tax Alert 2020-1627.

Venezuela

- In Official Extraordinary Gazette No. 6,532, dated 27 April 2020, Venezuela published a decree establishing a mandatory minimum monthly wage of 800,000.00 (i.e., national minimum wage of Bs. 400,000.00, and the Cesta Ticket (food ticket) of Bs. 400,000.00) for employees who provide services to the public and private sectors. The mandatory minimum monthly wage also applies to the pensions of pensioners (i.e., those who are unable to work for various reasons, including disability) and retirees of the of Public Administration, as well as the pensioners and retirees of the Venezuelan Institute of Social Insurances. The Decree went into effect 1 May 2020.

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