Americas tax policy update

Q3 2020

Country

Argentina

- Argentina enacted Law 27,562, which establishes a new tax settlement plan for individuals and companies doing business in Argentina. The regime allows taxpayers to settle their outstanding debts as of 31 July 2020, including national taxes, social security taxes (certain exceptions apply) and certain customs debts. The deadline to apply for the settlement plan is 31 October 2020 and the first installment payment is due on or after 16 November 2020 (depending on the taxpayer and the installment plan chosen). Under this regime, taxpayers could enter into an installment payment plan of up to 120 monthly payments. The monthly interest rate would be 2% for the first six months, and a variable interest rate (BADLAR rate in Argentine pesos for local private banks) would apply for the following months. For more information, see Tax Alert 2020-2103.
- The House of Representatives (Lower House) approved changes to the promotional regime for the knowledge-based economy, which was suspended beginning in January 2020. The bill is pending approval of the Argentine Senate. To participate in the regime, the bill would require resident companies to: (1) be compliant with their tax, social security and labor obligations; (2) prove that they developed the promoted activities; (3) enroll in a registry; and (4) comply with other requirements, which may include obtaining a certification from a third-party organization indicating that the company is continuously improving in accordance with recognized quality standards, training of the workforce, and achieving a certain percentage of exports. The company also may have to show that it has research and development (R&D) expenses. If a company is approved for the regime, it would be eligible for a 60% reduction of the corporate income tax applicable to the gains derived from the promoted activities, as well as a value-added tax (VAT) and reverse withholdings exemption for exports of goods and services derived from the promoted activities. Additionally, the company would be eligible for a tax credit bond equal to 70% of the employer´s social security contributions (which may be increased to 80% if certain diversity and inclusiveness criteria are met). The tax credit bond could be used to cancel income tax and VAT obligations. Foreign income tax withholding would be considered as a deductible expense against Argentine-sourced income derived from promoted activities.

Brazil

- As discussed in the last edition of the Americas Tax Policy Update, 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). The CBS is intended to work as a federal VAT. As written, the bill could increase tax rates on the insurance sector. Specifically, the bill could raise the tax cost of insurance sector activities by imposing a higher rate on domestic transactions, preventing the industry from recognizing and generating certain tax credits, and increasing the cost of reinsurance abroad. For more information on how the bill would affect the insurance sector, see Tax Alert 2020-1932. For more information on how the bill would affect financial institutions, see Tax Alert 2020-1959.
- The bill also could affect the technology, media & entertainment, and telecom sectors by extending the CBS to cross-border transactions involving rights and intangibles and making digital platforms the responsible parties for collecting applicable taxes. Additionally, the bill could impact taxpayers that participate in special regimes. For more information, see Tax Alerts 2020-1943 and 2020-2016.
- The Chamber of Deputies is discussing a new digital services tax proposal (Complementary Bill 218/2020) that would levy a 3% tax on the gross revenue derived by resident and nonresident companies that: (1) provide digital services to Brazilian consumers; and (2) are part of groups within a group that derives annual global revenue exceeding BRL 4.5 billion per year. Another digital services tax bill was proposed in May 2020. For more information on the bill proposed in May, see Tax Alert 2020-1246.

Canada

- On 18 August 2020, the federal government prorogued Parliament, suspending all parliamentary business until 23 September, when it reopened with a "Speech from the Throne" that set out the government's proposed long-term policy agenda for the duration of this session of Parliament in advance of an Economic Statement later this fall. The announced policy agenda was ambitious and would be expensive if fully implemented. Given that this is a "minority government" that could be defeated in the House at any time, triggering a general election, it was an election platform as much as a Throne Speech. Two tax measures were proposed: (1) a limit on the stock option deduction for wealthy individuals and (2) a measure "addressing corporate tax avoidance by digital giants," possibly a digital services tax that had been in the governing Liberal Party's 2019 election platform. Further details on these and other tax measures are pending the Fall Economic Statement or the tabling of a budget. The speech also stated that the Canada Emergency Wage Subsidy (CEWS) would be extended until the summer of 2021.
- Currently, the CEWS is extended through November 2020. The Government also proposed major changes that will provide a wage subsidy to any employer that has experienced a revenue decline between July 2020 and November 2020 when compared, generally, to the respective prior month in 2019. Key elements of the redesigned CEWS are:
  - A base subsidy, calculated on a sliding scale that gives more support to businesses with higher rates of revenue decline
  - A top-up subsidy of up to 25% for employers most affected by the COVID-19 crisis
  - A safe harbor rule to ensure that an employer with a revenue decline of 30% or more will receive no less for periods 5 (5 July – 1 August 2020) and 6 (2 August – 30 August 2020) under the redesigned CEWS program than they would have under the initial design
  - A separate CEWS rate structure for furloughed employees

  For more information, see Tax Alert 2020-1874.
- The federal Minister of Employment, Workforce Development and Disability Inclusion and the Deputy Prime Minister and Minister of Finance announced the government's $37 billion plan to transition from the Canada Emergency Response Benefit (CERB) into a simplified and enhanced Employment Insurance (EI) program or new benefits. The plan would include a four-week extension of the CERB, a temporary simplification and enhancement of the EI program, the addition of three new temporary benefits, and a freeze of the EI premium rates for two years. For more information, see Tax Alert 2020-2151.
- The Department of Finance proposed changes to the flow-through share rules to alleviate the challenges exploration companies in the mining industry are facing due to the COVID-19 pandemic. The proposals aim to extend the timeline for resource corporations to incur eligible expenses by 12 months. For more information, see Tax Alert 2020-1950.
- Alberta premier Jason Kenney announced the launch of the Innovation Employment Grant (IEG), which is effective on 1 January 2021. The IEG will provide grants worth up to 20% of a company's R&D costs incurred in Alberta. Supporting legislation will be introduced in the fall of 2020. Qualifying corporations will receive an 8% grant for their baseline R&D costs and an additional 20% grant on any incremental spending above the baseline up to a maximum of $4 million in annual R&D expenditures. For more information, see Tax Alert 2020-2003.

Chile

- The Chilean Congress ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI), which is now pending the Chilean President's approval. Once approved by the President, the MLI will be published in the Official Gazette and enacted upon publication. Once the MLI enters into force, numerous double tax treaties signed by Chile will be automatically updated without requiring bilateral renegotiations. For more information, see Tax Alert 2020-1777.

Colombia

- The Colombian Government issued Decree 1103, which regulates the indirect transfer regime. Under this regime, the indirect disposal of assets located in Colombia, through the transfer, by any means, of shares, participations or rights in foreign entities, is taxed in Colombia, as if the Colombian underlying assets were directly transferred (some exceptions could apply).The decree clarifies the tax basis calculation and withholding tax obligations on indirect transfers. It also explains how other regulations interact with the indirect transfer regime. For more information, see Tax Alert 2020-2127.

- On 21 August 2020, the Colombian Government issued Decree 1157, which regulates the mega-investment special tax regime. The decree outlines how to apply for the mega-investment regime and the requirements that must be satisfied. It also explains how to enter into a tax stability agreement to retain the benefits of the regime even if there are law changes. For more information, see Tax Alert 2020-2154.
- In Decree 1054, the Colombian Government establishes the requirements that private equity funds, collective investment funds and foreign portfolio investments (hereinafter, Fund or Funds) must meet to qualify for special tax treatment. The decree also includes rules on Colombian permanent establishments (PEs), particularly profit distributions. Under Decree 1054, a Fund may defer the taxation of income the moment the Fund's shares are listed on the stock exchange (the Fund must be previously registered with the National Registry of Securities and Issuers). Deferral will continue as long as the underlying listing obligations are fulfilled and the shares are traded on the stock exchange. For Funds not listed on a stock exchange, deferral applies from the date on which the withholding agent confirms the fulfillment of the beneficial-owner requirements. The confirmation must be certified annually by the withholding agent within three months following the end of the tax year. For more information, see Tax Alert 2020-1979.
- The Colombian Government issued Decree 1089, which includes regulations on the credit against income tax liability for the VAT paid on the acquisition, importation, formation or construction of Real Productive Fixed Assets (AFRP for its Spanish acronym). AFRPs are:
  - Considered fixed assets under the domestic law (i.e., assets that are not transferred within the regular course of the business)
  - Characterized as tangible assets under domestic law
  - Acquired, built, formed or imported to be part of the taxpayer's assets
  - Used directly and permanently within the income-producing activity for the provision of goods and/or services
  - Subject to depreciation or amortization for tax purposes
- A taxpayer liable for the VAT on AFRP may take such VAT as a credit for income tax purposes in the tax year in which the VAT is actually paid. An excess of such tax credit may be carried forward to the following tax years without limitation. For more information, see Tax Alert 2020-2038.
- In Decree 1010, the Colombian Government established regulations to implement the provisions of Law 2010 of 2019, which established a normalization tax. Taxpayers may declare omitted assets and correct previously declared liabilities that do not exist and pay the 15% normalization tax on those assets and liabilities as of 1 January 2020. A 7.5% normalization tax may apply in certain cases.
- Through Decree 1011 of 2020, the Colombian Government established regulations on the tax credit for investments in R&D and investments in innovation and personnel who have a PhD degree. The tax credit will be 50% of the investment made and certified by the National Council of Tax Benefits in Science, Technology and Innovation or 50% paid to the personnel who hold the PhD degree.
- Through Decree 1013 of 2020, the Colombian Government issued regulations on the deductibility of expenses associated with education programs for employees. Under the decree, employers may deduct expenses for (1) study scholarship programs and forgivable credits for education (i.e., loans granted by entities to employees or their families when repayment is waived); (2) investments in programs or centers for care, child development or initial education for workers' children under age seven; and (3) contributions to duly recognized basic and secondary, technical, technological and higher education institutions.
- The Colombian Government issued Decree 1091 of 2020, which regulates the simple tax regime. The decree clarifies the procedure taxpayers under the simple tax regime must follow to comply with their tax obligations. Likewise, the decree clarifies how taxpayers may transition from the general tax regime to the simple tax regime. The simple tax regime is an optional tax system under which taxpayers make bimonthly estimated tax payments and file a single tax return per tax year. According to the decree, this new regime aims to reduce taxpayers' formal tax obligations.
- The Colombian Government issued Decree 1147 of 2020, regulating the "work for taxes" benefit. This tax benefit grants a tax credit to taxpayers that choose to perform special work (e.g., construction or public services). This decree clarifies how projects are made available to taxpayers and the requirements taxpayers must satisfy to apply for the tax benefit.
- The Government of Panama included Colombia in its list of jurisdictions with which it will begin to automatically exchange tax information in 2020 for tax year 2019.

Costa Rica

- Costa Rica's Minister of Finance delayed VAT collection on cross-border digital services by Costa Rican public or private entities that issue credit or debit cards (withholding agents) to 1 October 2020. The delay only covers the withholding agents. It does not include VAT collection by suppliers or intermediaries of cross-border digital services that voluntarily register as VAT taxpayers. For more information, see Tax Alert 2020-1876.

Dominican Republic

- The Dominican tax authorities issued General Norm 04-2020 (the Norm) to implement the provisions of Law 46-20 on Transparency and Equity Revaluation (Law 46-20), which establishes methods for voluntarily declaring and revaluating certain assets and paying tax debts. With the publication of this Norm, the provisions of Law 46-20 (as modified by Law 68-20) went into effect. The purpose of the Norm is to establish the mechanism, forms, accounting treatments, procedures, and conditions that taxpayers must follow to qualify for, and apply to, the special transitory tax regime provided in Law 46-20. Law 46-20 also establishes tax payment discounts for all existing tax liabilities, regardless of the type of tax, their origin or whether the liabilities were subject to administrative or judicial appeals.

Taxpayers must apply for the benefits within 180 days of 13 July 2020. For more information, see Tax Alert 2020-1832.

- The tax authorities also announced in Notice 79-20 that they had created various forms for taxpayers to apply for the benefits of Law 46-20.
- The Senate is reviewing a bill that would modify the Law establishing the General Budget for 2020 and Law 46-20. The amendments to Law 46-20 would allow taxpayers that declare or revaluate assets under Law 46-20 to close open tax periods for income tax and VAT purposes by paying 3.5% of the average amount of their operational net income declared for income tax purposes in tax years 2017, 2018 and 2019 and a 2% tax on the newly declared or revaluated assets established in Law 46-20. The bill also would allow taxpayers to pay off tax debts arising from tax assessments that were appealed before the Dominican tax authorities or tax courts by paying 70% of the tax due without the imposition of surcharges or interest.
- The tax authorities issued Resolution No. DDGI-AR1-2020-0001, which exempts entities and sole ownership businesses considered micro and small businesses, as well as certain taxpayers that are part of the hotel industry, from making estimated tax payments from August through December 2020. Entities that are not micro and small businesses but had a significant reduction in income during tax year 2020 may request a total or partial exemption from making estimated tax payments for that period. In addition, the resolution establishes that certain hotel industry taxpayers, micro and small entities are exempt from the first asset tax installment payment. The resolution also established the procedure for entering into an automatic payment agreement for the first installment of the asset tax for tax year 2020 for taxpayers that do not qualify for the exemption.
- The Dominican tax authorities implemented the use of digital property certificates for vehicles. The certificates will have a QR code that will provide all information for the vehicle and its owner for validation purposes.

Ecuador

- Ecuador published Executive Decree No. 1114, which contains the regulations on the VAT on digital services. The regulations took effect 16 September 2020. The regulations define the digital services subject to the VAT, specify exempt services and outline procedures for withholding and payment of the tax. If the foreign supplier is not registered in Ecuador, the responsibility for the withholding and payment of VAT on the importation of digital services depends on whether the transaction is business-to-consumer (B2C) or business-to-business (B2B). For B2C, the intermediary (the bank if the payment is made via credit or debit card) to the Ecuadorian customer withholds the VAT. In this case, the bank statement will be considered as the withholding receipt. For B2B, the "importer of the service" assumes responsibility for the VAT through a "self-assessment." In this case, the Ecuadorian resident should issue a local document denominated "liquidación de compra de bienes y servicios," adding the VAT to the service billed by the nonresident, and then issue the withholding receipt for the 100% VAT. The VAT should be paid to the tax authorities on a monthly basis through the VAT tax return. If the foreign supplier is registered in Ecuador, it should act as a VAT collector agent and then pay the tax to the tax authorities. The registration will not constitute a permanent establishment for the nonresident. Recently the tax authorities published on their website the procedure and forms to complete this registration. Due to the COVID-19 emergency, the request may be made by e-mail. For more information, see Tax Alert 2020-2017.
- Ecuador issued regulations implementing the tax reform enacted on 30 December 2019. Specifically, the regulations implement (1) corporate income tax rules, (2) income tax rules for the banana, agricultural and farming industries, (3) dividend withholding rules, and (4) VAT rules for digital services. Under the regulations, companies that make new productive investments in sectors considered “basic industries” may obtain an income tax exemption for the income derived from those investments for 10 years. The exemption will apply in proportion to the value of the new productive investments. The exemption amount could be more than 10% of the income. Additionally, the regulations require tax to be withheld on dividends distributed by Ecuadorian companies and permanent residents. For more information, see Tax Alert 2020-2115.
- To assist with COVID-19 relief efforts, the Ecuadorian President ordered certain taxpayers to pay estimated income taxes for tax year 2020 on or before 11 September 2020, rather than paying the entire tax by the April 2021 deadline. The requirement to pay estimated income taxes applied to individuals and companies, including permanent establishments of foreign companies, that: (1) were subject to income tax, (2) received USD $5 million or more in gross income during tax year 2019, and (3) earned a profit from January through July 2020. The following taxpayers were not required to pay estimated income taxes: (1) taxpayers considered “micro, small and medium” companies under Ecuadorian law, (2) taxpayers that are exempt from paying income tax based on their total income for tax year 2020, (3) taxpayers domiciled in the Galapagos, (4) airline operators, (5) tourism-related businesses, including tourist accommodations or restaurants, (6) taxpayers in the agricultural sector, (7) regular exporters of goods, (8) taxpayers that earn 50% of their income from exporting goods, and (9) taxpayers in the aquaculture sector. For more information, see Tax Alert 2020-2186.

El Salvador

- El Salvador enacted Bill No. 705, which contains temporary provisions to the International Services Law. The temporary provisions establish that users authorized to operate in service parks and service centers may conduct activities outside the authorized facilities to comply with the sanitary and social distancing rules due to the COVID-19 pandemic. The bill was enacted through publication in Official Gazette No. 174 on 28 August 2020 and will be effective until 31 December 2020.
- The tax authorities announced that, beginning 26 August 2020, taxpayers must schedule an appointment to conduct certain procedures at one of the Tax Administration’s Taxpayer Service Centers. For ease of reference, the tax authorities also published a list of services organized by how those services may be carried out (e.g., online, telephone, mail, in person).

Guatemala

- Decree 24-2020 extended the due date from 31 July 2020 to 31 October 2020 for taxpayers to pay the tax on the use of land, sea and air vehicles.
- The Guatemalan Congress discussed Bill No. 5777, which would eliminate the solidarity tax. The bill is still in the preliminary discussion stage, which means it could be modified or rejected by Congress.

Honduras

- No tax policy developments are available for this quarter.

Mexico

- Mexico's President submitted to Congress the economic proposal for 2021. Compared to the 2020 economic package, the proposal addresses more administrative and enforcement types of tax issues with fewer cross-border tax implications and does not include tax increases or new taxes. The proposal would modify certain provisions of the Federal Fiscal Code. Specifically, the proposal would modify the general anti-avoidance provision to clarify that the rule would not impede a criminal investigation or charges. The proposal also would modify the rules for tax-free spin-offs, joint liability (including certain scenarios related to spin-offs, as well as permanent establishments), refunds, digital seal certificates, use of technological tools by the tax authorities and conclusive agreements. Additionally, the proposal would modify the maquila regime provisions and nonprofit entity limitations of the Income Tax Law. The proposal also would modify the VAT Law to expand the rules for nonresident digital service providers and establish additional non-compliance consequences. For more information on the proposal, see Tax Alert 2020-2272.
- The United States, Mexico and Canada Agreement (USMCA) entered into force on 1 July 2020. As a result of the new treaty, new regulations have been or will be issued. Currently, the following regulations have been published: (1) guidelines that limit the amount of textile and clothing goods that will be subject to preferential customs treatment; (2) guidelines for USMCA customs matters; and (3) customs rates for North American goods. For more information, see this EY bulletin.
- Amendments to Mexico's general customs regulations for 2020 were published in the Official Gazette on 24 July 2020. The amendments change the VAT certification program by eliminating many procedural and administrative benefits. Specifically, the amendments eliminate the accelerated process for VAT refunds and reduce the time that temporarily imported inventory can remain in Mexico from 36 months to 18 months. These changes may impact the operations of businesses operating under the maquiladora and other regimes in Mexico. For more information, see Tax Alert 2020-1966.

Nicaragua

- No tax policy developments are available for this quarter.

Panama

- Panama enacted Law 149 of 2020, which establishes the Special Regime for the Establishment and Operation of Multinational Enterprises that Render Manufacturing Services (EMMA for its Spanish acronym). Entities under the EMMA regime will have various tax, customs, labor and immigration benefits, including a reduced corporate income tax rate of 5%. For more information, see Tax Alert 2020-2094.
- Panama's General Directorate of Revenue issued Resolution 201-3967 of 2020 (the Resolution), establishing an updated registration mechanism within the Registry of Taxpayers (RUC for its Spanish acronym) of the "e-tax 2.0" platform for foreign companies that act as representatives of Panamanian corporations (i.e., joint-stock companies). The e-tax 2.0 platform is the Panamanian tax authorities' online tax information platform. The Resolution enables the registration of such foreign companies in the e-tax 2.0 system in the "identification type" field, "linked third parties" tab and on the "RUC" module. The Resolution also establishes information and documentation filing requirements for the registration of foreign companies that act as legal representatives of Panamanian corporations before the General Directorate of Revenue. For more information, see Tax Alert 2020-2052.
- Panama published a list (Executive Decree 343 of 2019) of reportable jurisdictions for Common Reporting Standard (CRS) purposes. "Reportable jurisdictions" are jurisdictions with which an agreement is in place and are identified in a published list by the competent authority. The decree lists 64 jurisdictions that will exchange information during 2020 for tax year 2019 data. Additionally, the decree extended the due date from 31 July 2020 to 30 September 2020 for Panamanian reporting financial institutions to do Foreign Account Tax Compliance Act/CRS filing before the tax authorities.
- A tax amnesty program was enacted through Law 161 of 2020 in response to the COVID-19 pandemic. Under the law, the due date for companies, limited liability companies, private interest foundations and other legal entities to pay the franchise tax was extended from 15 July 2020 to 31 December 2020. Taxpayers will not be subject to penalties if the franchise tax is paid by that date. Also, all taxpayers whose gross income does not exceed US $2.5 million are eligible for a 10% reduction in the total tax amount due for the period of 20 March to 31 July 2020, provided the taxes are paid within three months of the law's enactment date. The reduction applies to the following taxes: (1) income tax (does not include tax withheld from employees and nonresidents); (2) notice of operations tax; (3) complementary tax; (4) property tax. Additionally, the law establishes that taxpayers that already paid their taxes for the period from 20 March to 31 July 2020 will receive a credit of 10% of the amount paid.
- Panama enacted Law 160 of 2020, amending the tax amnesty program established in Law 99 of 2019. Law 160 extends the amnesty program from 29 February 2020 to 31 December 2020. Under the tax amnesty, 85% of interest, surcharges and fines, including fines for the late filing of tax-related documents and reports, will not be imposed. Law 160 also postpones the effective date of the Tax Procedure Code from 1 January 2020 to 1 January 2022. The provisions that are currently in force, however, will remain in force.

- Resolution 201-3338 of 2020 amends the transfer pricing form (i.e., Form 930 V 2.0) for reporting the information for tax year 2020 and subsequent years. The amendments to the form require the taxpayer to identify the special economic zone or area in which the related party that engages in transactions with the taxpayer is established. The form also must include the taxpayer's legal representative's general information (i.e., name, ID number, email address).

Paraguay

- Paraguay enacted Law No. 6.380/19, "Modernization and Simplification of the National Tax System," and its regulatory decrees in September 2019. Accordingly, no further major tax policy changes have been proposed in Paraguay during 2020.
- Paraguay has issued several measures to ease the economic burden of the COVID-19 pandemic on taxpayers. They include:
  - Decree No. 3.781/2020, which modifies the tourism regime and establishes that the VAT taxable base on importation will be 10% of the guaranty amount of the customs value expressed in foreign currency, plus customs duties, until 31 December 2020
  - Decree No. 3.785/2020, which modifies the provisions that regulate the excise tax for virgin naphtha and other fuels derived from petroleum
- Decree No. 3.881/2020 establishes a temporary VAT regime applicable to the provision of services in hotels, restaurants and suppliers in Paraguay, as well as to the sale of tourist packages with a destination inside the country. Through this measure, the tax will be settled or determined by applying a 10% rate on 50% of the amount of the transaction from 1 August 2020 to 30 June 2021.

Peru

- On 1 July 2020, through Resolution No. 011-2020-SUNAT/700000, the Peruvian tax authorities established that no penalties or fines will be imposed on taxpayers domiciled in Peru beginning 26 June 2020, within specific areas of Peru in which the Peruvian State (Arequipa, Ica, Junín, Huánuco, San Martín, Madre de Dios and Ancash) extended the state of emergency from 1 July to 31 July 2020. Accordingly, the Peruvian tax authorities determined that Resolution No. 008-2020-SUNAT/700000 authorized the imposition of tax penalties and fines from 16 March 2020 to 30 June 2020. Also, it clarified that any penalty payments made by taxpayers to the Peruvian tax authorities cannot be refunded or offset.
- On 5 July 2020, through Resolution No. 013-2020-SUNAT/300000, the Peruvian tax authorities confirmed that it will not impose sanctions for customs infractions committed in the areas of Peru where the state of emergency still applies. The Peruvian tax authorities will not impose customs sanctions if all of the following requirements are met:
  - The infractions were committed in the customs offices of Chimbote, Mollendo, Pisco, Puerto Maldonado and Tarapoto from 1 July 2020 to 31 July 2020.
  - The customs infractions are committed by a foreign trade operator or a third-party operator.
  - The omitted or corrected information is transmitted to or recorded in the customs office system.

  The Peruvian tax authorities clarified that Resolution 006-2020-SUNAT/300000 applied to customs infractions committed until 30 June 2020. Any payments made in relation to customs infractions cannot be refunded or offset.
- Peru issued Supreme Decree 226-2020-EF, simplifying the procedure for foreign tourists to claim a VAT refund. The simplified procedure allows "collaborating entities" authorized by the Peruvian tax authorities to issue VAT refunds. The Peruvian tax authorities will designate as a collaborating entity a Peruvian resident company that has a valid Tax ID, issues electronic vouchers and files tax returns on time. The procedure also allows a tax-free certificate to be issued for one or more invoices, instead of only one invoice. Tourists will need a certificate to claim a refund. For more information, see Tax Alert 2020-2099.
- The Peruvian tax authorities issued Resolution No. 000016-2020-SUNAT/700000, addressing when the tax authorities may use their discretionary power to not administratively sanction taxpayers for infractions described in numeral 10 of Article 175 of the Peruvian Tax Code (infraction for noncompliance with the obligation to register operations in the tax and accountant electronic registries within the period required).
- The Government issued Resolution No. 003-2020-EF/30, making official the International Financial Reporting Standard (IFRS), for the use of micro and small companies (known as MYPEs in Peru) and entities that have no public obligation to provide accounts and publish financial statements for general information purposes for external users.
- Peru issued Supreme Decree No. 136-2020-PCM, amending Supreme Decree No. 006-2003-PCM, which regulated the rules under the "Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994," the "Agreement on Subsidies and Countervailing Measures" and the "Agreement on Agriculture." Supreme Decree No. 136-2020-PCM will not treat antidumping and countervailing duties as fines.

Puerto Rico

- Through various Administrative Determinations and Circular Letters, the Puerto Rico Treasury Department (PRTD) implemented various provisions of Act 257-2018, Act 40-2020 and Act 57-2020 (COVID-19-related stimulus measures). Specifically, the PRTD provided guidance on: (1) the temporary sales and use tax (SUT) exemption on services rendered to other merchants and designated professional services introduced by Act 57, and (2) accounting method rules for merchants that engage in construction services under Act 40. Additionally, the PRTD postponed until 30 June 2021 the fiscal terminal requirement introduced by Act 257 for the SUT exemption applicable to the rental of commercial real property.
- The Governor of Puerto Rico signed Act 107-2020 into law, enacting the Municipal Code of Puerto Rico. Among other things, the Municipal Code consolidates and modifies various pieces of municipal tax legislation, including those related to municipal license, property and construction excise taxes.

- The PRTD issued guidance on requesting economic assistance through a local Payroll Protection Program (PPP). The program was established under the Strategic Plan ordered by an Executive Order signed by the Governor of Puerto Rico to distribute the COVID-19 funds assigned to Puerto Rico under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

United States

- **Legislative developments.** The Congress enacted a continuing resolution to extend federal government funding and expiring health provisions through 11 December and to extend surface transportation authorization and flood insurance through 30 September 2021, among other things. Congress has so far not been able to pass additional COVID-19 relief legislation. The death of Supreme Court Justice Ruth Bader Ginsburg on 18 September further complicated Congress's focus on these issues as it set in motion a highly partisan battle over her successor on the Court.
- **Tax Cuts and Jobs Act (TCJA) updates.** The US Treasury Department issued the following significant TCJA regulations:
  - Final regulations (TD 9922) and proposed regulations (REG-101657-20) on determining the foreign tax credit, and allocating and apportioning deductions, under the Internal Revenue Code. The final regulations generally follow proposed regulations published on 2 December 2019, but make certain changes. See Breaking Tax News 2020-9050.
  - Final and proposed regulations limiting the impact of the repeal of IRC Section 958(b)(4) in determining the controlled foreign corporation (CFC) status of a foreign corporation when applying certain provisions. The final regulations (TD 9908) generally follow proposed regulations issued in October 2019. The new proposed regulations (REG-110059-20) would make payments ineligible for look-through under IRC Section 954(c)(6) if paid by a CFC that is only a CFC as a result of the repeal of IRC Section 958(b)(4). See Tax Alert 2020-2362.
  - Final regulations (TD 9919) under IRC Section 864(c)(8) on the treatment of a foreign partner's transfer of an interest in a partnership that is engaged in the conduct of a trade or business within the United States. The final regulations largely adopt proposed regulations issued on 20 December 2018 (REG-113604-08), with some technical changes. See Tax Alert 2020-2344.
  - Final regulations (TD 9916) on the allowance for the additional first-year depreciation deduction under IRC Section 168(k), as amended by the TCJA, for qualified property acquired and placed in service after 27 September 2017. TD 9916 finalizes, with modifications, the proposed regulations released in September 2019. See Tax Alert 2020-2330.
  - Final regulations (TD 9910) on the base erosion anti-abuse tax (BEAT) under IRC Section 59A. The regulations finalize proposed BEAT regulations that were issued on 2 December 2019 and revise certain final BEAT regulations issued on the same date. The 2020 final BEAT regulations generally adopt the aggregate group rules, the election to waive deductions and the partnership rules of the 2019 proposed BEAT regulations. The 2020 final BEAT regulations also provide generally taxpayer-favorable refinements to the nonrecognition transaction anti-abuse rule introduced by the 2019 final BEAT regulations. See Tax Alert 2020-2232.
  - Final regulations (TD 9905) on applying the limitations on the deductibility of business interest expense (BIE) under IRC Section 163(j). The final regulations provide guidance on what constitutes interest for purposes of the limitation, how to calculate the limitation, which taxpayers and trades or businesses are subject to the limitation, and how the limitation applies in certain contexts (e.g., consolidated groups). Accompanying proposed regulations (REG-107911-18) would provide additional guidance on several other aspects of the limitation. See Tax Alert 2020-1961.
  - Final regulations under IRC Section 245A (TD 9909), providing anti-abuse rules for "extraordinary dispositions" and "extraordinary reductions." The final regulations deny the IRC Section 245A dividends received deduction for 50% of the dividends paid by specified 10%-owned foreign corporations (SFCs) to the extent attributable to earnings and profits (E&P) from extraordinary dispositions. Accompanying proposed regulations under IRC Sections 245A and 951A (REG-124737-19) coordinate the two sets of anti-abuse rules that apply to extraordinary dispositions and disqualified transfers. Absent the proposed regulations, gain recognized in an extraordinary disposition effectively could be taxed twice. See Tax Alert 2020-2142 and Tax Alert 2020-2157.
  - Carried interest proposed regulations (REG-107213-18) under IRC Section 1061, which would recharacterize as short-term capital gains certain net long-term capital gains of a partner holding one or more applicable partnership interests (APIs). Among other things, the regulations, which apply complex reporting requirements for partnerships, provide that certain types of capital gain income would not be subject to IRC Section 1061. See Tax Alert 2020-2026.
- **Tax policy developments.** President Trump issued an executive order that allows for the deferral of the withholding and employer remittance of the employee share of Social Security tax (6.2% of wages up to $137,700) and the comparable portion of the Tier 1 Railroad Retirement Tax (RRTA), effective 1 September 2020, and through 31 December 2020. The deferral is available only to employees earning less than $4,000 each biweekly payroll period, or $104,000 per year. See Tax Alert 2020-2021. The US Treasury Department provided implementing guidance in Notice 2020-65, which designates employers as taxpayers affected by the COVID-19 emergency and postpones the deadline for withholding and payment of certain employee Social Security tax (or the corresponding amount of RRTA) until the period from 1 January 2021 to 30 April 2021. The Notice does not affect Medicare tax or the employer portion of Social Security tax (the latter of which was separately deferred by the CARES Act). For employers that withhold, the Notice does not defer the deposit obligation. If an employer does defer collecting employee Social Security tax on applicable wages, the employer must withhold and pay the taxes ratably from

wages paid from 1 January 2021 through 30 April 2021. See Tax Alert 2020-2163.

Uruguay

- On 9 July 2020, Uruguay enacted Law No. 19,889, modifying the tax law. The law authorizes the Executive Power to adjust the monthly VAT payment regime for micro and small businesses. It also establishes that these types of businesses (including those that begin operations on 1 January 2021) will pay the minimum VAT based on a progressive scale. These businesses also are exempt from paying the employer's pension contributions to the Social Security Bank. Additionally, the law establishes the "National Resources Fund" and adds it to the existing "special donations" list for corporate income tax purposes. Taxpayers that donate to that institution may deduct part of the donation as corporate income tax expense and use the remaining donation amount to pay the annual corporate income tax and net wealth tax assessments.
- The Executive Power, through Decree No. 193/020, further suspended deadlines from 15 May 2020 to 15 August 2020 for entities to submit the affidavit to the Uruguayan Central Bank reporting their ultimate beneficial owners and shareholders.
- Uruguay's tax authorities issued Resolution No. 1,252/020, making certain adjustments to documentation obligations taxpayers that are totally or partially exempt from taxes must satisfy. Specifically, the resolution requires taxpayers that are exempt from tax for all of their activities to request a certificate from the tax authorities. They also must request a certificate to document the operations relating to the exempt activities. The provisions of the resolution apply from 1 September 2020. For more information, see Tax Alert 2020-1942.
- The Uruguayan tax authorities extended the due dates (Resolution No. 1,251/020) for certain large and medium-sized entities to pay their corporate income tax, net wealth tax and corporations control tax. The resolution allows those taxpayers to pay the corporate income tax, net wealth tax and corporations control tax that was due in June and July 2020 in September and October 2020.
- The Executive Power issued Decree No. 209/020, establishing temporary authorizations for the permanent import of goods currently under the "duty-free shop" regime. The decree authorizes companies operating within the "duty-free shop" regime to permanently import the goods that are currently under the "single fiscal deposit" (i.e., customs warehouse, authorized for the sole purpose of customs control for merchandise destined for sale in duty-free shops) by paying 45% of the invoice value of the goods for all taxes related to the import and deducting the amounts promptly paid as a fee – or "canon" under the "duty-free" regime – when they originally entered the "single fiscal deposit."
- On 2 September 2020, the Executive Power submitted to the Uruguayan Parliament a bill that, if approved, would ratify the Double Taxation Avoidance Agreement with the Federal Republic of Brazil, which was signed on 7 June 2019.

Venezuela

- In Official Gazette No. 41,954, dated 31 August 2020, Venezuela published Administrative Order SNAT/2020/00057 establishing the special taxpayer's and withholding agent's calendar for VAT returns, VAT withholding, and VAT and income tax (IT) advance payments for 2020. Taxpayers classified as special taxpayers by the National Tax Administration (SENIAT) must file their VAT returns, remit VAT withholding, and make VAT and IT advance payments on the dates established in the calendar in accordance with the last digit of the taxpayer's identification number. Tax returns and payments corresponding to the first two weeks of September should have included 31 August 2020 in that period. Tax returns and payments for taxes not mentioned in Administrative Order SNAT/2020/00057 must be filed or paid on the dates established in Administrative Order No. SNAT/2019/00339 or in the current regulations, as appropriate. The Administrative Order entered into force as of its publication in the Official Gazette.

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