
Post-pandemic era brings slew of tax reforms in Latin America in 2021

February 2022

Still shrouded in uncertainty over the future of the global COVID-19 pandemic, and seeking to strike a delicate balance between keeping economies running and not accumulating a large tax deficit, Latin American countries stepped into the post-pandemic world in 2021 with a range of tax reforms.

After 2020 when Latin American governments, like the rest of the world, focused on tackling the health crisis and economically shoring up the sectors that were hardest hit by the necessary business restrictions, 2021 presented an opportunity to rebalance weakened public finances without detracting from the slow but steady recovery in those countries. A truly titanic effort of which the outcome remains to be seen in the future course of these economies.

The only thing that there is total certainty about is that, yet again, as seen throughout the course of history, an event with the social and economic impact like that of the pandemic is inevitably accompanied by changes in the field of tax.

In this document, our tax experts analyze the tax changes announced and enacted in 2021 in Chile, Mexico, Peru, Colombia, Argentina and Uruguay.





Chile

On December 21, 2021, the executive branch sent to the Chamber of Deputies a bill (Message No 415-369) reducing or removing certain tax exemptions, designed to obtain additional funds to finance the broadening and strengthening of the pillar of support in the Chilean pensions system, as proposed in the bill. The bill was unanimously approved by Congress on January 26, 2022, and was published in the Official Gazette on February 4, 2022.

The main tax changes included in the new law are as follows:

The current exemption for capital gains obtained on the transfer of certain listed securities is replaced with a single 10% tax on income

- Up until now, capital gains obtained by any type of investor on the transfer, primarily on one of the country's stock exchanges, of shares in *sociedades anónimas* (public limited companies), mutual funds and investment fund shares traded on a stock exchange or where their investments consist of listed securities have been exempted from income tax in Chile.
- The new law levies a flat 10% income tax rate on these gains, except for those obtained by the institutional investors referred to in letter e) of article 4 bis of Law No 18045 (namely banks, financing companies, insurance companies, legally authorized fund managers, and any other institution specified by the Financial Market Commission through general legislation), whether domiciled or resident in Chile or in other countries.
- Moreover, the losses incurred on the sale of such securities, whether on a stock exchange or not, can only be deducted from the revenue obtained by the taxpayer in the same fiscal year, derived from the transfer of this type of securities and subject to the flat-rate tax on income of 10%.
- It is important to note that, for determining the capital gain subject to the 10% tax, the new law allows taxpayers domiciled or resident in Chile to consider either of the following acquisition and/or contribution values:
 - The official closing price of the respective securities on December 31 of the year of acquisition (or December 31, 2021 for securities acquired before this change entered into force); or
 - The acquisition and/or contribution value according to the general provisions established in the Income Tax Law.
- Taxpayers domiciled or resident abroad can only consider as acquisition and/or contribution value the value determined pursuant to the general provisions established in the Income Tax Law.
- This tax must be withheld by the buyer or the stock broker or securities agent acting on behalf of the seller, at the rate of 10% on the capital gain, unless the withholding agent does not have sufficient information to determine the capital gain, in which case the withholding will be made at a provisional rate of 1% on the gross purchase price, without any deduction. The sum withheld must be declared and paid into the public treasury within the first 12 days of the month following the date on which the transfer price is paid, remitted, credited or made available by the seller.
- According to the transitional provisions of the bill, these changes will take effect six months after the first day of the month following publication of the law in the Official Journal and, therefore, will apply to the transfers made on or after September 2, 2022.

VAT to be charged on most services

- Under the current legislation, VAT is only charged on services deriving from the activities specified in article 20.3 and 20.4 of the Income Tax Law (namely commercial and industrial activities, extraction activities, etc.).
- The new law eliminates the reference to article 20 of the Income Tax Law and, therefore, now the general rule will be that all services are subject to VAT unless they are explicitly exempt (such as the services supplied by individuals on an independent basis where physical effort predominates over the capital or materials used, those derived from the pursuit of liberal professions or of any other profit-making profession or occupation, and those obtained by professional partnerships that are not subject to the tax on income from business profits). The VAT changes will apply to services supplied on or after January 1, 2023.



Chile

- The new law expressly exempts outpatient healthcare services, supplies and procedures that are provided without accommodation, meals or medical treatments and that are typical of institutional health providers such as hospitals, clinics or maternity hospitals, including the supply of consumables and medicines, carried out in the performance of outpatient service, provided they are used and consumed in that procedure and included in the price charged for the supply. Laboratory services are not included in this exemption.
- The bill also specifies that the VAT exemption currently applying to the Chile Postal Service company only relates to national and international correspondence delivery services and not to package or parcel shipping, money orders or other similar items.

Limitation on the tax benefit for small housing or DFL2

- According to the original wording of Decree Law (DFL) No 2 of 1959, individuals or legal entities that owned “small houses” enjoyed several tax benefits, which most notably included the exemptions from inheritance and gift tax and from income tax on the rental income.
- Law No 20,455, published on July 31, 2010, limited the application of those benefits exclusively to individuals and up to a limit of two dwellings per person. Notwithstanding these changes, transitional article 5 of that law established that homes acquired prior to 2010 would not be affected by these limits, meaning that, at present, some individuals and legal entities can still apply those tax benefits.
- With the approval of this new law, starting on January 1, 2023, the tax benefits envisaged in DFL No 2 of 1959 will be limited to only individuals and up to a maximum of two dwellings per person, irrespective of when the dwelling was purchased.

Elimination of the special deduction for construction companies

- Construction companies currently have the right to deduct from their provisional monthly payments 65% of the VAT applied on the sale of housing whose value is UF 2,000 (approx. USD 77,700) or less, with a cap of UF 225 (approx. USD 8,700) per housing unit.
- Construction companies can also deduct 12.35% of the sale value of VAT-exempt housing units acquired by beneficiaries of housing subsidies.
- The new law eliminates this special deduction for building construction contracts signed and sales made on or after January 2, 2025 and temporarily reduces the sum that construction companies can deduct from the provisional monthly payments to 32.5% of the VAT charged and 6.175% of the sale value, respectively, applicable to sales made and building construction contracts signed on or after January 1, 2023, provided they have obtained the respective municipal building permits and that the works commenced before January 1, 2025.
- Construction companies will maintain the 65% deduction on VAT with respect to the sales made before January 1, 2023, provided that: (i) the respective municipal building permit was obtained before that date; and (ii) the works commenced before December 31, 2023.

Proceeds from life insurance policies are now subject to the tax on inheritances, assignments and gifts

- The new law levies the tax on inheritances, assignments and gifts on all proceeds obtained under life insurance policies taken out after the law is published in the Official Journal (February 4, 2022). At present, these proceeds are subject to neither inheritance tax nor income tax. Insurance companies are prohibited from paying sums owed for life insurance policies until they receive proof of payment of the tax.

The maximum property surtax is modified and the payment of that surtax on property owned by the State is excluded

- At present, the law establishes a marginal rate for the property surtax by tranches of assessed tax value; when that value exceeds UF 1,510 (approx. USD 58,700), a surcharge of 0.275% is applied. The new law changes that percentage to 0.425%.



Chile

- The new law also includes a special rule that excludes the payment of the surtax for property owned by the State and municipal councils.
- The new law would therefore amend article 7 bis of DFL No 1 of 1998 (Property Tax Law No 17,235), modifying the surtax applicable to real estate whose appraised tax value exceeds UF 1,510 (approx. USD 58,700) from 0.275% to 0.425% and excluding the application of the surtax on property that is subject to the application of article 27 of that same law, that is, for concession-holders and occupants under any title of government-owned real estate, whether municipal or national, designated for public use.
- The change in the maximum surtax would take effect on January 1, 2023, and the modification relating to the exemption for property owned by the State and municipal councils would take effect retroactively, from January 1, 2020.

New tax on luxury goods

- An annual tax is established at a rate of 2% of the appraised value or the market value of the following luxury vehicles, as appropriate, payable in addition to vehicle registration or similar permits:
 - i) Private helicopters with a market value of UTA 122 (approx. USD 99,400) or more;
 - ii) Private planes with a market value of UTA 122 (approx. USD 99,400) or more;
 - iii) Yachts with a market value of UTA 122 (approx. USD 99,400) or more;
 - iv) Automobiles with a market value UTA 62 (approx. USD 50,500) or more.
- This tax will not apply to the property owned by the State or municipal councils or to the property of a company that carries out manufacturing activities (listed in numbers 1, 3, 4 and 5 of article 20 of the Income Tax Law).
- Taxpayers subject to the tax on income from business profits may not deduct the luxury goods tax when determining their net taxable income.
- The tax accrues annually on January 1, is levied on the assets owned by the taxpayer on December 31 of the preceding year, and is due in the month of April of the respective year.

Tax treatment for financial leasing agreements is brought on a par with the accounting treatment

- At present, the tax treatment of financial leasing agreements differs from their accounting treatment.
- For accounting purposes, financial leasing is not considered as a true lease but as the acquisition of the asset; however, from a tax viewpoint, financial leasing arrangements are treated as a lease with a purchase option. That means that from an accounting perspective, the lessee becomes the owner of the asset and applies depreciation rules, but for tax purposes, the lessee reflects lease payments as an expense.
- The new law puts an end to this difference, incorporating a new article 37 bis into the Income Tax Law, whereby the tax treatment of a leasing arrangement would be the same as its accounting treatment, established by the Internal Revenue Service through a ruling and in line with international financial reporting standards, thus recognizing the economic reality of the transaction.
- The new treatment would apply for financial leasing agreements signed on or after January 1, 2023.

Modernization of mining concessions

- In Chile, mining concessions are regulated under a patent protection regime, and the right to explore and/or exploit them is granted based on an annual payment (UTM 1 = USD 68).
- The new law increases the term of exploration patents to four years, but eliminating the possibility of renewal. It also increases the patent payment from UTM 1/50 per hectare to UTM 3/50 per hectare.



Chile

- Exploitation patents would continue to be for an indefinite term. With respect to the price of exploitation patents, a progressive time scale is created for concessions where taxpayers cannot prove they carried out mining work (without distinguishing between metals and non-metals mining):
 - UTM 4/10 per hectare for the first 5 years;
 - UTM 8/10 per hectare from year 6 to year 10;
 - UTM 9/10 per hectare from year 11 to year 15;
 - UTM 1.2 per hectare from year 16 to year 20;
 - UTM 3 per hectare from year 21 to year 25;
 - UTM 6 per hectare from year 26 to year 30; and
 - UTM 12 per hectare as from year 31.

In addition, the new law establishes that the revenues derived from patents covering mining concessions that exceed USD 80 million will go to the public treasury.

 **Mexico**

On November 12, 2021, the Official Federal Gazette published the Decree reforming, extending and repealing different provisions of the Income Tax Law, the Value Added Tax Law, the Excise Tax on Production and Services Law, the Federal New Car Tax Law, the Federal Tax Code and other legislation. Below are most relevant changes that will take effect on January 1, 2022.

On September 8, 2021, the Ministry of Finance and Public Credit of Mexico presented the Chamber of Deputies with the so-called Economic Package for 2022, as we reported in this alert: [Mexico presents the Economic Package for 2022 with important new tax-related changes](#).

This economic package, among other documents, included different initiatives that had to be submitted for discussion and legislative approval by the Mexican Congress. Those initiatives included, most notably, efforts to reform, extend and repeal various provisions of the Income Tax Law, the Value Added Tax Law, the Excise Tax on Production and Services Law, the Federal Tax Code and the Federal New Car Tax Law, in order increase tax collection without creating or raising taxes, instead eliminating loopholes to combat practices classified as tax evasion.

In the end, lawmakers approved the initiatives with minimal changes. Lawmakers did, however, reject some initiatives initially proposed by the executive branch, such as a limit on personal deductions with respect to supplementary and voluntary contributions for individuals' retirement. In addition, the lawmakers decided to modify the executive branch's proposal for an income tax exemption for individuals engaged exclusively in farming, livestock, forestry or fishing activities and whose earnings effectively collected in the fiscal year are below MXN 900,000 (approx. USD 43,600), establishing that if the earnings exceed that amount but are less than MXN 3.5 million (approx. USD 169,400), the tax will be paid according to the rates applicable for the new Simplified Good Faith Regime.

Likewise, lawmakers modified the thresholds for obligatory filing of financial statements, so that now only taxpayers that report earnings of MXN 1,650,490,600.00 (approx. USD 79,856,200) or more in the immediately preceding fiscal year will be subject to the obligation.

Accordingly, and in keeping with what was stated in [our alert of last September 14](#), the most relevant modifications, which are now official and which will take effect on January 1, 2022, are as follows:

Income tax

- From now on, a valid “business rationale” will be an essential requirement for accessing different tax benefits, such as the transfer of shares “at tax cost” and in the case of mergers and spin-offs.
- New requirements are established for the legal representation of foreigners, the deduction of interest according to thin cap rules and the deduction of irrecoverable receivables, and new limits apply to the offset of tax losses in mergers and spin-offs.
- In relation to irrecoverable receivables, the decree establishes that they will not be deductible until the relevant legal and court procedures have been exhausted and a favorable judgment has been obtained.
- In relation to transfer pricing, the decree eliminates the use of advance pricing agreements (APA) for maquiladoras (toll manufacturers), leaving the safe harbor as the only instrument applicable in these cases. It also establishes that the deadline for filing the local information return on related parties is May 15 of the year immediately following the fiscal year of reference.
- New simplified regimes called “good faith” regimes are created, one for legal entities with annual revenues of up to MXN 36 million (approx. USD 1,693,400), allowing them to be taxed on a cash flow basis, and another for individuals with annual income of up to MXN 3.5 million (approx. USD 169,400) who will be taxed at progressive fixed rates calculated on their earnings, thereby replacing the Tax Incorporation Regime (RIF).
- Moreover, lawmakers decided to consider as cumulative revenue the value of the usufruct right determined in the appraisal that must be made when usufruct of an asset returns to the holder of the bare ownership. In these cases, notaries, judges and other attesting officials must inform the tax authorities of the details of the transaction.
- Furthermore, the annual depreciation rate of fixed assets related to construction work carried out on mining lots has been reduced to 5%.

 **Mexico****Value added tax**

- In the case of taxpayers that perform activities not subject to the VAT Law, the decree establishes that they cannot recover the VAT paid to suppliers or on the import of goods when the VAT is linked to such activities.
- In order for the VAT generated in pre-operational periods to be recoverable, taxpayers must inform the tax authorities in the month in which such activities are initiated.
- Moreover, the decree clarifies that the temporary use or enjoyment of goods in Mexican territory will continue to be subject to Mexican VAT, regardless of the place of its material supply or of the execution of the legal act that gives rise to it.

Federal Tax Code

- The reform adds new cases in which mergers and spin-offs will be considered a sale for tax purposes.
- Restrictions have been placed on the migration of tax residence to low-tax jurisdictions.
- A new case has been included for the tolling of limitation periods for the tax authorities to determine obligations.
- Several adjustments have also been made and new requirements established for the issuance of online digital tax receipts, the filing of notices of change of partners or shareholders, the Federal Taxpayer Registry cancellation notices and the procedure to cancel digital tax receipts.
- New cases of joint and several liability have been added.
- The reform establishes that when a mutual agreement procedure envisaged in international treaties is requested, the tax authority interest will have to be guaranteed.
- Lastly, worth noting are the new deadline for concluding resolution procedures (12 months) and the new controls and penalties for non-compliant activities in the hydrocarbons sector.

We reiterate that all of the aforementioned changes will take effect on January 1, 2022, although transitional provisions will apply in some particular cases.

 **Peru**

On October 27, 2021, a bill was presented before the Congress of the Republic of Peru requesting the delegation to the executive branch of powers to legislate on tax, fiscal and financial matters and economic reactivation.

On December 17, 2021, the bill was debated and parts of it were approved by the Congress. The legislative powers were finally conferred by means of Law No 31380, published on December 27, 2021, for a period of 90 calendar days (i.e., until March 28, 2022). Under that authorization, the government has approved the following tax measures:

Measures to standardize the cost of benefiting from tax stability for all sectors

For companies that receive income from foreign investments and enter into stability contracts with the Peruvian State, the corporate income tax rate will be the rate applicable for the tax year in which the stability contract is signed, plus two (2) percentage points.

This measure enters into force on December 31, 2021 and will also apply to applications in process.

A new case of net presumptive income is included for foreign companies that sell hydrobiological resources

Starting on January 1, 2022, it is presumed that foreign companies (and their branches and other permanent establishments in the country) generate net income when they sell highly migratory hydrobiological resources extracted within or outside Peruvian maritime territory to Peruvian companies. Said presumptive income will amount to 9% of the gross revenues received on the sale.

The list of resources subject to this measure will be determined from time to time by the Ministry of Production.

Exemptions from General Sales Tax (IGV) are extended

The exemption from IGV for the issuance of electronic money by regulated electronic money companies is extended until December 31, 2024.

Moreover, the IGV exemption in relation to certain goods and services listed in Appendices I and II of the Revised General Sales Tax and Excise Tax Law is extended until December 31, 2022.

Various tax measures approved in relation to the aquaculture, forestry and wildlife sectors

Starting in fiscal year 2022, individuals and legal entities that perform activities in the aquaculture, forestry or wildlife sectors and that receive business income will benefit from the same reduced income tax rates that apply to the farming/irrigation/export/agribusiness sector (i.e. 15%, 20% and 25%, as the case may be).

In addition, up to December 31, 2025, they may apply the accelerated depreciation rate of 20% on the amounts invested in infrastructure intended for: (i) crops and water supply channels for the aquaculture sector; and (ii) management and use of forest land and wildlife.

Likewise, individuals and legal entities that perform aquaculture, forestry and wildlife activities can now determine their corporate income tax prepayments based on the provisions of the Income Tax Law and its regulations.

Various changes in municipal tax provisions

Starting on January 1, 2022, for the registration or formalization of transfers of assets subject to property tax, real estate transfer tax and vehicle tax, the notary public must require proof of payment of said taxes for all the periods in which the interested party had the status of taxpayer. Prior to this legislative amendment, it was only necessary to prove payment of such taxes for the period in which the transfer was carried out.

The increase in property tax and/or municipal fees as a consequence of a new urban development and/or building will now be chargeable as from expiration of the related permit and/or its extension (as appropriate), without having to wait until the respective construction work approval or statement is issued. In the case of buildings, the taxpayer must also have a certificate from the municipal authorities proving that it is inhabited or that it has been delivered to the final owners.

 **Peru****Changes to the rules for granting exemptions, incentives and tax benefits**

The grant of tax advantages is now subject to additional justification requirements, such as evidencing their greater efficiency and efficacy compared to other options of tax policy and evaluating whether they generate conditions of unequal competition with respect to taxpayers that do not benefit from them.

Likewise, tax benefits cannot be granted in relation to excise taxes and to goods or services that are harmful to health and/or the environment.

Moreover, tax benefits can only be obtained by taxpayers that issue electronic receipts, if they are so obliged.

Bribe payments are not deductible

The law expressly states that payments made in the crime of bribery cannot be deducted as an expense or cost for income tax purposes.

New provisions on the use of technology in various tax proceedings

Appearances, inspections, oral reports and other actions performed in the context of audit proceedings, appeals before the Tax Court, among others, may be carried out remotely through relevant digital channels.

Likewise, as part of its auditing powers, the Tax Administration may supervise compliance with tax obligations in digital environments. For such purposes, it may use all necessary technological means such as audio and video recordings, among others, to document such supervision.

Furthermore, notifications through digital channels will be deemed made on the date of deposit of the corresponding message or document (it should be noted that this provision will become effective as from March 1, 2023, whereas currently, such notifications are understood to be made on the business day following the date of deposit of the message or document).

In addition, SUNAT may use its web page (or certain news media) to notify the acts carried out for the purposes of controlling compliance with the tax obligations of subjects that are not registered before the Taxpayers Registry (RUC).

New obligations for tax debtors

In order to facilitate the auditing work of the Tax Administration (as well as the tasks performed by SUNAT to provide and request mutual administrative assistance in tax matters), tax debtors will be required to provide access to the data processing systems where they register their accounting operations.

Failure to provide such access has been included as an infraction, punishable by the Tax Administration.

Changes to the regulations on the Taxpayers Registry (RUC)

As from July 1, 2023, SUNAT may require the incorporation of taxpayers to the RUC based on the type, quantity or value of the goods they own or the services they consume.

Likewise, taxpayers must include their Taxpayer ID number in all documentation through which they offer goods or services (even through digital means). Failure to do so is included as an infraction, punishable by the Tax Administration.

Furthermore, if taxpayers do not establish an address for tax purposes, the addresses informed to certain public entities or in contracts with private entities may be presumed as such by the Tax Administration.

Finally, if SUNAT detects unregistered taxpayers who generate business activity, they may be included ex officio as taxpayers under the General Income Tax Regime. Exceptionally, such taxpayers may apply for other special preferential regimes, if they comply with the requirements established for such purposes.

 **Peru**

The legislative powers granted to the government also include, among others, the authority to enact the following measures:

In relation to income tax

- Regulate how associative contracts (silent partnerships) are taxed.
- Amend the provisions that set the basis for requiring reliable and/or dated documents to certify that there is no unjustified equity increase.
- Establish a new valuation method that comes reasonably close to market value in the transfer of securities (such as shares).
- Regarding the application of the “sixth method” for establishing transfer prices, modify the deadlines for reporting the quotation period and regulate other aspects that simplify notices, contracts, and more.

In relation to General Sales Tax (IGV) and Excise Tax (ISC)

- Simplify the fulfillment of taxpayers’ obligations bearing in mind the use of technological tools.

In relation to municipal taxes

- Improve the application of municipal taxes.

In relation to tax inspections and proceedings

- Make tax litigation more efficient.
- Modify the cases for issuing payment orders.
- Enshrine in law certain mandatory criteria established by the Peruvian Tax Court.
- Create “tax obligation compliance profiles” to be more flexible or restrictive with taxpayers based on their noncompliance risk level.
- Create a procedure to attribute the status of “taxpayer without operating capacity” to taxpayers that do not have the structure to carry out the economic activities they report performing, in order to help detect tax evasion.

Other relevant measures

- Reduce the threshold as from which payment methods must be used (i.e. bankarization).



Colombia

After the central government withdrew its initial tax reform bill, the Social Investment Law was approved by Congress without incident and with a clearly limited scope compared to the ambitions of the initial bill, targeting taxation of legal entities.

The law does not resolve issues of substance or technical or collection matters, but it provides relief within the confines of a tax reform that is politically feasible under the current circumstances. With this tax reform now approved, another one will no doubt arise in 2022 or 2023.

Among the measures enacted, besides increasing the corporate income tax rate, a limit is placed on the deduction of industry and commerce tax (ICA) from corporate income tax and amnesties are reintroduced, with the creation once again of the fiscal normalization tax (tax amnesty) and with payment terms, and with respect to administrative and judicial procedures, this already constituting a long-standing collection-boosting mechanism in previous reforms.

Thus, taxation falls more on companies, changing the trend seen in recent reforms of shifting the burden to individuals following international standards, on whom it will surely fall again once the difficulties caused by the pandemic have been overcome.

Income tax

- Starting in 2022, the corporate income tax rate will be increased to 35%, and from 2022 to 2025 a surtax will apply to financial institutions to bring their total tax rate to 38%. This applies to financial institutions with taxable income over UVT 120,000 (approx. USD 1,152,387).
- The carry-back and carry-forward of dividends is increased to 10 years for taxpayers engaged in concessions and public-private agreements.
- The 100% deduction of industry and commerce tax and supplementary billboard tax from income tax is repealed.
- Changes have been made in the tax incentive for “orange economy” companies.

Measures against tax evasion

- The rules on the automatic exchange of information are amended, enabling the Colombian tax authorities (DIAN) to indicate the aspects involved in such exchanges and transferring the inspection function in due diligence processes to the DIAN, in accordance with the procedural rules of the Tax Statute.
- The definition of ultimate beneficial owner (formerly called “*beneficiario efectivo*”), which up to now had two meanings, one for information exchange purposes and another for information data cross-checking purposes, has been clarified and unified. The new provision gives a detailed definition of ultimate beneficial owner, stating that the term should be understood to extend to “effective or real beneficial owner” for tax purposes. However, this does not include the definition of beneficial owner in application of a tax treaty. Also, a single register of ultimate beneficial owners (RUB) has been created as an integral part of the taxpayers register (RUT).
- The sources of information in order for individuals to be registered ex officio on the RUT are widened.
- The rules relating to electronic invoicing are reinforced and broadened, with the resulting penalties in case of breach.
- The DIAN can now use the information obtained through the electronic invoicing system and information obtained from third parties to make an official determination of “invoiced income tax”, and such determination will be enforceable.

Amnesties

- A new iteration of the normalization tax is created as a supplement to income tax, applicable to income taxpayers (or payers of alternative regimes) that did not declare certain assets or that claimed non-existent



Colombia

liabilities for tax purposes, as of 1 January 2022. The normalization rate of 17% (possible decrease to 8.5% through a 50% reduction in the taxable base of undisclosed assets when they are repatriated and invested in Colombia with the intention of permanence).

- Penalties and interest rates for tax liabilities administered by the DIAN and property taxes are temporarily reduced, provided the payment is made or a payment agreement is signed on or before December 31, 2021.
- The DIAN is authorized to reach conciliation agreements in judicial review proceedings relating to tax and customs matters, provided the taxpayer has filed an action for nullity and reinstatement prior to June 30, 2021 and that the action has been given leave before the conciliation request is made to the tax authorities.
- The DIAN is authorized to terminate, by mutual agreement, administrative proceedings in relation to tax, customs and foreign exchange matters in certain cases.
- Application of the most-favorable-case principle is established in the collection stage for penalties already determined by the DIAN and the regional entities, with an impact on fines.
- A reduction and special payment conditions are established for taxpayers owing traffic violation fines levied before June 30, 2021.

Reduction in the statute of limitation for inspections

- The audit benefit is extended for 2022 and 2023. Given the tax hike, the tax authorities are given less time for inspection.

Other taxes

- A three-day VAT-free period per year is maintained for the sale of certain goods.
- Certain new requirements and conditions are established for the VAT exemption for imports of goods with a value of USD 200 or less that enter Colombia through postal services, urgent shipments or quick delivery shipments.
- Taxpayers that apply the Simple Regime and only perform sales of food and beverages will not be liable for VAT or for the excise tax by 2022.
- A rule is established calling for the National Government to present a bill regulating and capping the stamp tax charged on a single administrative formality, by January 1, 2023 at the latest.
- Some formal aspects of the Simple Tax Regime, which is optional and voluntary as an alternative to income tax, industry and commerce tax and excise tax, have been modified.

Measures for recovery

- The formal employment support program (PAEF) has been extended.
- Incentives are established for the creation of new jobs, along with support for companies affected by unemployment.



Argentina*

* Garrigues does not have offices in Argentina

In recent months, the Argentine National Congress and the national government have passed measures to boost the post-pandemic economic recovery. Among those measures, the National Congress has approved a tax relief law, which calls for extending the moratorium established by the Social Solidarity and Productive Reactivation Law in the Context of the Public Emergency, adopted at the end of 2019. On June 16, Argentina also saw an important change in the Corporate Income Tax Law, with the general rate being replaced by a progressive rate based on taxable income obtained in the period. Furthermore, the national government recently announced that it will not renew Decree 1201/2018 implementing export duties on services and, through a new decree, has clarified that cryptocurrency purchases and sales are not exempt from financial transactions tax. Lastly, on November 29, 2021, the improved conditions of the installment payment plan were extended to January 31, 2022. The main features of the measures are as follows:

Tax Relief Law No 27.653

- Forgiveness of debts below ARS 100,000 (approx. USD 925) for micro and small enterprises and small taxpayers.
- Grant of benefits to complying taxpayers that are individuals or micro and small enterprises.
- Stay of execution of tax procedures and hindrance of injunctive measures against micro and small Enterprises and critical sectors until December 31, 2021.
- Extension of the moratorium under the Solidarity Law.

Extension of the moratorium under the Solidarity Law

- Adhesion period until March 15, 2022.
- This measure allows taxpayers to include overdue tax, social security and customs debts as of August 31, 2021.
- Partial forgiveness of interest depending on the size of the company.
- Forgiveness of penalties.
- Between 24 to 120 installments, depending on company size.
- Initial payments at fixed interest rate depending on company size.
- Subsequently, interest charged at the variable BADLAR rate in pesos.

Corporate income tax

- The general corporate income tax flat rate of 30% was modified.
- The new rate is variable and depends on net taxable income accumulated over the tax period.
- Companies with taxable income up to ARS 5,000,000 (approx. USD 46,000): 25%.
- Companies with taxable income over ARS 5,000,000 and up to ARS 50,000,000: ARS 1,250,000 (approx. USD 11,500) plus 30% on any excess over ARS 5,000,000.
- Companies with taxable income above ARS 50,000,000 (approx. USD 462,900): ARS 14,750,000 (approx. USD 136,500) plus 35% on any excess over ARS 50,000,000.

Wealth Tax

- The Solidarity Law had established, on an exceptional basis, a higher rate for assets held abroad. The new law amends the wealth tax law to permanently establish this higher rate for taxpayers with assets abroad. The rates range from 0.70% to 2.25%, depending on the total value of the assets.



Argentina*

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- The law also establishes a new general rates scale ranging from 0.50% to 1.75%, which will depend on the value of the assets exceeding non-taxable minimum threshold.
- An exemption is established for taxpayers whose total assets do not exceed ARS 6,000,000 (approx. USD 55,500) or ARS 30,000,000 (approx. USD 277,000) in the case of real estate used as a primary residence. These amounts will be revised each year in accordance with the consumer price index published by the National Statistics and Census Office (INDEC).

Decree 796/2021

- The decree clarifies that transactions involving cryptocurrencies, cryptoassets and similar instruments are not exempt from the financial transactions tax.

Duties on export of services

- The national government announced that it will not renew the degree establishing 5% duties on the export of services. Those duties will be completely eliminated as of January 1, 2022.

Installment payment plan - Extension of benefits

- The improved conditions in the installment payment plan, which include a higher maximum amount of plans, a higher number of installments and a lower effective monthly rate, are extended until January 31, 2022.



Uruguay*

*Garrigues does not have offices in Uruguay

The Uruguayan government has avoided making tax reforms that might generate distortions and impact the decisions of local and international investors. The government's explicit aim is to maintain the stability and legal certainty that characterize Uruguay in a context of regional and global volatility and to capitalize on the international acknowledgment the country has received for its successful handling of the pandemic from the healthcare and economic standpoints, with a low number of cases and deaths and a very high vaccination rate, all without having to establish the mandatory restrictions that hampered economies.

Nevertheless, some new tax rules were passed in the year, almost all of which were clearly aimed at boosting direct investment and making the country a more attractive destination for individuals and companies in the post-pandemic world.

Extension of the tax holiday regime

- In 2020, Uruguay had introduced a “tax holiday” regime exempting all foreign-source income for the year in which taxpayers became tax residents in Uruguay and the following 10 years (such a regime has been in force since 2011, for the year of the residence change plus five years). In 2021, the Uruguayan parliament approved Law No 19.937, allowing individuals who acquired tax residence in Uruguay before 2020 to extend their tax holiday period to equal the new ten-year option. These individuals must have elected the tax holiday option before 2020, prove that they acquired property for a value exceeding UI 3,500,000 (approx. USD 400,000), and be present in Uruguay for at least 60 days in each calendar year (these last two conditions must be fulfilled throughout the period during which the regime is to be applied).
- Under the Uruguayan tax system, individuals with tax residence in Uruguay are not taxed on their foreign-source income, with one of the main exceptions being income from financial investments, which are subject to income tax at a rate of 12%, which should be offset by a credit for taxes paid abroad (unilateral tax credit). Accordingly, individuals who became tax residents due to any of the causes existing before 2020 could benefit from a period of exemption from income tax on investments abroad for five fiscal years, plus the year in which they became residents. Starting in 2020, and as we discussed at that time [here](#), Uruguayan legislation allows individuals to make a one-time election between enjoying the same exemption in the fiscal year in which they became tax residents and the following 10 years and later paying the 12% tax, or not benefiting from that tax holiday and instead paying a 7% tax on a permanent basis from the start.
- Under the new law approved in 2021, tax residents that had benefited from the tax holiday or were benefiting from it for 2020 have been given an extension until the new ten-year period is completed, always subtracting the time already enjoyed, and provided they meet the above-mentioned investment and physical presence requirements in all the years.

International tax transparency, global minimum tax rate and the EU Code of Conduct Group's list of cooperating countries

- In 2021, the Uruguayan government submitted the Accountability Project to the parliament, where adjustments were made to improve the communication of information for tax purposes, broadening the list of mandatory reporters.
- Likewise, along with 130 countries composing the BEPS Inclusive Framework, the Uruguayan government signed the declaration agreeing to implement a global minimum tax rate based on the BEPS two-pillar solution to address the tax challenges arising from the digitalization of the economy.
- Lastly, Uruguay expressed its will to cooperate with the EU Code of Conduct Group, undertaking to make changes in 2020 to its territorial tax system for company's investment income. The country thus reaffirmed its commitment to international tax standards, such as the latest revision in the context of Action 5 of the BEPS Project, which entailed relevant changes in some promotional regimes, namely free zones and intellectual property, fully adapting them to international requirements.



Uruguay*

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Exceptional relief for the COVID-19 crisis

- During 2021, the Uruguayan government and parliament approved various provisions to lighten companies' tax burdens, establishing in many cases extensions of tax filing and payment deadlines and definitive exemptions from national taxes and special contributions to social security for sectors particularly hard hit.
- Tax benefits for border areas were established to encourage domestic tourism and especially foreign tourism in the 2021-2022 summer season, once the borders were opened in November for vaccinated travelers.

Modifications and adjustments to the investment promotion regime

- Also in 2021, certain adjustments were made in Uruguay to encourage activities of a large economic scale, such as construction, within the context of Investment Promotion Law No 16.906. Changes were also introduced to benefit companies holding public concessions. The Investment Promotion Law makes available a very extensive menu of exemptions from national taxes and social security contributions.

New tax treaty with Colombia

- In late 2021, Uruguay and Colombia signed a tax treaty that is particularly relevant for the increasingly extensive economic relations between the two Latin American countries.
- The agreement was signed on November 19, 2021 and has already been submitted to the legislatures of both countries for approval. The treaty will take effect on the last day of the month following the receipt of the notifications in which both countries confirm that they have completed the constitutional formalities required by each state.



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