A Guide to VAT/GST/SUT in the Americas 2013

Updates and reforms in Argentina, Brazil, USA, Peru and more!
A Guide to VAT/GST/SUT in the Americas

Contents

Foreword
Preface
Introduction
Country Chapters Content
Antigua & Barbuda
Argentina
Bolivia
Brazil
Canada
Chile
Colombia
Costa Rica
Dominican Republic
Ecuador
El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama
Paraguay
Peru
Trinidad & Tobago
United States of America
Venezuela
Appendix
Contributors
Debt ridden economies around the world seek new revenue sources and in most countries, these usually come from consumption taxes. They provide simpler solutions for governments to collect taxes, because the greater part of the administrative burden lies on the business sector. Non-compliance can be costly for enterprises, as seemingly minor mistakes can accumulate to material tax shortfalls within a few years. Based on these risks and the increased personal responsibility of the company leadership, indirect taxes slowly rose up on the agenda from the level of tax and accounting departments to CFO and board level.

Who has to pay the tax, where does it have to be paid and what data should be collected are critical questions even for minor value, everyday transactions. Because indirect tax accounting can be affected by almost all the internal processes within a company, understanding technology and set-up of systems becomes a crucial part of an indirect tax professional’s life. We can already see that rapid technological changes in e-commerce, especially in the electronically supplied services sector also lead to radical rethinking of consumption tax regimes.

Consumption taxes also play a crucial role in the Americas, independent of the fact whether they are assessed as Value Added Tax (VAT), Goods and Sales Tax (GST) or Sales and Use Tax (SUT). Even in the US, the recent discussions around the Market Place Fairness Act show the ambition of the government to tax consumption more effectively.

It is a great pleasure for me to introduce the 2013 update of the “Guide to VAT/GST/SUT in the Americas” and I trust that this book can serve as a primary source of information on consumption taxes in the Americas.

PwC’s Indirect Tax Network is a family of experts with presence in over 130 countries and nearly two thousand indirect tax specialists. Our global network aims to make the indirect tax function of your company more efficient and to help you to take always the right decisions. Based on our expertise, we are pleased to contribute to the success of your business.

Michaela Merz
Global Indirect Taxes Network Leader
PwC Switzerland
Preface

At PwC we are very proud to demonstrate the strength of our global network to our great clients, PwC Partnership staff and worldwide office coverage.

The 2013 Guide to VAT/GST/SUT in the Americas is a great example indeed of the practical support we offer to assist you in handling your tax affairs.

For three consecutive years, in total 21 of our PwC Firms in the Americas have committed to deliver practical, yet very detailed information on indirect taxes to the client businesses.

In a collaboration environment, PwC seeks to inform its Clients about recent significant changes that may modify decision making, or assist Clients take advantage of the new situations that derive from amendments to important tax regulations regarding VAT/GST/SUT aspects.

We planned this updated Guide to be specifically client focused, to respond to frequent questions we receive from our clients, but in a simple yet consistent format.

In 2013, the VAT/GST/SUT systems of several countries have been reformed or updated. Amongst the changes, within this updated version, you will find that:

- Argentina addressed the Tax penalty amendments enacted last year that constitute a criminal offense.
- The USA addressed the importance of taxation in e-commerce.
- Peru extends a general anti-avoidance rule recently incorporated in the local legislation.
- And Brazil highlights the so called tax war within the States incentives.

We have incorporated new Partners and Managers to our network, so please do not hesitate to contact us directly if you need a local helping hand or leadership contact.

We hope this Guide will be helpful towards the support of your ideas.

Mauricio Hurtado
Tax & Legal Services
Managing Partner
PwC Mexico

Ivan Jaso
Indirect Taxes Network
Western Cluster Leader
PwC Mexico
Introduction

Generally speaking, VAT in the region operates in a similar way to the European Union’s VAT regime. It is a turnover tax levied on the supply of goods and services when performed in a business environment, as well as on the importation of goods and services. VAT incurred on purchases or levied on importation can in principle be offset against the VAT due on sales. This credit/debit system has features within each country arising from specific needs and circumstances.

Most of the American countries have adopted a standard VAT system, with a single VAT law that is applicable across the country even where a country is a federal state. However, there are some exceptions such as Brazil, Bolivia and Costa Rica.

Understanding VAT in America

VAT is often seen by Multinational Companies as a cash flow issue which could in some cases represent a significant cost. In America, this could be the case of VAT incurred by foreign residents, as any of the countries included in this publication provides a refund mechanism for such purposes; or input VAT related to preoperative expenses which in some cases is not recoverable until the entity performs taxable activities; or even the administrative burden for the companies to fulfill the requirements established in the law and complementary legislations.

For the Tax Authorities, VAT is becoming an increasing focus area because of the simple and efficient tax collection and, as mentioned before, important source of revenue for different governments. Therefore, Tax Authorities are increasing and improving their audit procedures in order to reduce the risk of fraud and evasion.

Challenges in the years to come

With the economic competitiveness and the increasing reliance on VAT as the preferred option for taxation, American countries should design effective and efficient tax regimens to create a ‘win-win’ model for Governments, Businesses and Taxpayers.

A model where on one side, the Tax authorities maintain their revenues and increase the business attraction and employment; and on the other side, businesses keep a sustainable global profit and low risk to comply their tax burden. Both sides must count on the help of technology to reduce cost of collection. And last but not least, the Consumers, who are looking for employment and willing to contribute on an easy and fair tax regimen.

Another huge challenge will be to forecast whether or not the United States may implement the VAT, especially in these complex times, where new ideas, revenue and recession solutions must be in the agenda.

This Guide to VAT in the Americas may be a simple first approach to understand how each country uses the system, leverages the revenue and deals with domestic and international businesses.

We hope that you will find if not all, many of the answers to your questions about VAT in this complex and no less fascinating part of the world.

Note on terminology

In the main, we have adhered to generally accepted VAT English terminology. However, it should be considered that VAT/GST/SUT systems across the region and the respective terminology are not harmonized. Moreover, in most cases local legislation is not issued in English language. The following terms pose particular difficulties:

**Supply of goods and services:**
A supply of goods is generally understood as any transfer of the right to dispose of tangible or intangible property and a supply of services, as any transaction which does not constitute a supply of goods.
VAT legislation in the region rarely provides a definition of goods or services; therefore this is subject to local interpretation. Where such definition is provided, it has been included in the corresponding country chapter.

**Importation:**

Importation is generally understood as the introduction of tangible goods into a country. However, some countries provide a broader definition. Please refer to specific country chapters.

**VAT withholding agent:**

In many countries in Latin America, there are specific transactions where the liability for payment of VAT is shifted (partially or totally) from the supplier to the recipient of the goods or services. In these cases, instead of paying the corresponding VAT to the supplier, the recipient withholds the VAT and pays it to the Tax Authorities. Where this is applicable, the recipient is usually referred to as VAT withholding agent. These and other transactions where VAT withholding is applicable are described in the VAT Withholding Regimes section of each country chapter, where applicable.
Country Chapters Content

1. Scope
2. Taxable Persons
   2.1. Definition
   2.2. VAT Grouping (VAT consolidation regime)
3. Place of supply
   3.1. Goods
   3.2. Services
4. Chargeable event, chargeability of tax
   4.1. Goods
   4.2. Services
   4.3. Imports
5. Taxable Amount
   5.1. General Rule
   5.2. Exchange Rate Rules
   5.3. Rounding Rules
6. Rates
   6.1. Standard Rate
   6.2. Increased Rate
   6.3. Reduced Rate
7. Exemptions
   7.1. Exemption with no right to deduct input VAT
   7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
8. Deductions
9. Person liable to pay VAT - non-established taxable persons
   9.1. VAT Liabilities
   9.2. Registration for taxable person not established in the country
9.3. Application Procedure
9.4. VAT Registration: Simplification
9.5. Alternative procedures for non-established taxable persons
9.6. Exemption from the requirement to register
9.7. Joint Liability
10. VAT Compliance (Obligations under the internal system)
   10.1. Persons Liable to account for VAT
   10.2. Registration
   10.3. VAT Identification Number
   10.4. Tax authority
   10.5. Invoicing
       10.5.1. Valid Invoice
       10.5.2. Issuance of Valid Invoice - Outsourcing and self billing
       10.5.3. Electronic Invoicing
   10.6. Credit notes and debit notes
   10.7. Books and Accounting Registers/Records
   10.8. Retention of and access to: books, registers, records and invoices
       10.8.1. Retention Period
       10.8.2. Format of Archiving
       10.8.3. Place of Archiving
   10.9. Supporting documentation
10.10. Tax period and VAT returns
10.11. Due Date for payment of VAT
10.12. Refunds of VAT
10.13. Additional Reporting (statements)
11. Auditing
11.1. Auditing
11.2. E-Auditing
12. Penalties and risks for non-compliance
12.1. Penalties
12.2. Interest on late payments
12.3. Joint Liability
13. Statute of Limitations
13.1. Recovery of VAT by the tax authority
13.2. Recovery of VAT by the taxable person
14. Rulings and Decisions
15. Abuse of Law
15.1. Anti-avoidance and VAT Fraud measures
16. Other Rules
16.1. VAT withholding regimes
17. Useful contacts

* This is an indicative index, some country chapters may differ to consider the particularities of their VAT/GST/SUT system.
1. Scope

The local implementation of VAT is known as Antigua and Barbuda Sales Tax (abbreviated as “ABST”), and was introduced on 29 January 2007. It is applicable across the twin-island state, which does not have a federal government.

The following transactions are subject to ABST in Antigua and Barbuda:

• The supply (including a lease or hire) of goods in Antigua and Barbuda by a taxable person;
• The supply of services in Antigua and Barbuda by a taxable person;
• The import of goods into Antigua and Barbuda.

A supply of goods is defined as:

• A sale, exchange, or other transfer of the right to dispose of goods as owner;
• A lease, hire, or other right granted in relation to goods, including a supply of goods under a finance lease; or
• Anything that is deemed to be a supply of goods (by the legislation).

Goods are defined as real property or tangible personal property, but do not include currency.

A supply of services is defined as:

Anything that is not a supply of goods or currency is a supply of services, including:

• The grant, assignment, termination, or relinquishment of a right;
• The making available of a facility, opportunity, or advantage;
• Refraining from or tolerating an activity, a situation, or the doing of an act;
• The issue of a license, permit, certificate, concession, authorization, or similar document; or
• Anything that is deemed to be a supply of services (by the legislation).

2. Taxable Persons

2.1. Definition

Persons registered or required to apply for registration because of the type and value of supplies they make in Antigua and Barbuda.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Antigua and Barbuda. However, the combining of supplies made by related persons may be required for the purpose of determining whether those persons are obligated to apply for ABST registration.

3. Place of supply

3.1. Goods

Supplies of goods by a taxable person resident in Antigua and Barbuda are deemed to take place in Antigua and Barbuda, as well as supplies by non-residents where the goods are located in Antigua and Barbuda at the time of the supply.

3.2. Services

Supplies of services by a taxable person resident in Antigua and Barbuda are deemed to take place in Antigua and Barbuda, as well as supplies by non-residents where the services are physically performed in Antigua and Barbuda by any person at the time of the supply.
4. Chargeable event, chargeability of tax

4.1. Goods
As a general rule, the supply of goods takes place at the earlier of the date of issuance of the invoice (a document notifying an obligation to pay), or the payment of any part of the consideration for the supply.

Where the supply of goods is one of a series of progressive/periodic supplies made under an agreement/law providing for progressive/periodic payments, or is a lease/hire/license of goods, the supply takes place and the supplier becomes liable for ABST on the supply at the earliest of the following:

• The date on which an invoice is issued for the particular supply, if a separate invoice (a document notifying an obligation to pay) is issued for each supply in the series;
• The due date for payment for the supply;
• The date on which any part of the payment for the supply is received;
• The first day of the period to which the payment relates; or
• The first day on which the recipient is able to commence use/enjoyment of the supply.

4.2. Services
The supply of services takes place at the earlier of the date of issuance of the invoice (a document notifying an obligation to pay), or the payment of any part of the consideration for the supply.

Where the supply of services is one of a series of progressive/periodic supplies made under an agreement/law providing for progressive/periodic payments, the supply takes place and the supplier becomes liable for ABST on the supply at the earliest of the following:

• The date on which an invoice is issued for the particular supply, if a separate invoice (a document notifying an obligation to pay) is issued for each supply in the series;
• The due date for payment for the supply;
• The date on which any part of the payment for the supply is received;
• The first day of the period to which the payment relates; or
• The first day on which the recipient is able to commence use/enjoyment of the supply.

4.3. Imports
In the case of goods entered under formal customs procedures, the tax is due at the date on which the goods were imported. ABST is also due on goods imported for home use or consumption.

5. Taxable Amount

5.1. General Rule
As a general rule, the taxable amount of a supply is the consideration paid for the supply net of any ABST payable on the supply.

For imports, the taxable amount is the sum of the following:

• The customs value of the import;
• Any insurance and freight costs incurred in bringing the goods to Antigua and Barbuda not already included in the customs value;
• The cost of any supplies that are ancillary/incidental to the import; and
• All charges (including duties/taxes) levied on the importation (other than ABST itself).

5.2. Exchange Rate Rules
Amounts taken into account for ABST purposes that are expressed in a currency other than Eastern Caribbean Currency that relate to imports must be converted using the conversion rate applicable for computing the customs duty payable on the import. In any other case, the foreign currency amount must be converted using
the Eastern Caribbean Central Bank mid-exchange rate between the foreign currency and Eastern Caribbean Currency on the date the amount is taken into account.

5.3. Rounding Rules
There are no rounding provisions for reporting ABST.

6. Rates

6.1. Standard Rate
The standard rate is 15%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
A transitional rate of 10.5% is applicable to the supply of hotel or holiday accommodations from the inception of ABST until December 31, 2011. (A rate of 10% was also applicable on a transitional basis to gambling supplies made before January 29, 2009.) The transitional rate on the supply of hotel or holiday accommodations has increased from 10.50% to 12.5% from January 1, 2011.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
Supplies and imports of the following items are exempt from ABST:

- local transportation;
- financial services;
- residential premises (except where zero-rated);
- education;
- long-term accommodations (over 45 days);
- prescription medicines, medical and similar services, and veterinary services;
- unimproved/agricultural land;
- unprocessed agricultural products;
- agricultural/fishing inputs;
- domestic postal services; and
- local entertainment.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Supplies and imports of the following items are zero-rated:

- exported goods/services;
- electricity, limited in the case of commercial premises to the first 500 units per month;
- water;
- specified fuels;
- the first supply of new residential premises for approved charitable/residential purposes;
- specified food items (for human consumption);
- specified inputs for international transport;
- specified building inputs;
- specified computer equipment and software to unregistered persons;
- specified goods for domestic use (primarily items for personal/household sanitation, pharmaceuticals,
books and newspapers); and
• pre-approved supplies to international business companies (registered as such).

In designated areas at some of the state’s ports, ‘duty-free’ sales are permitted by licensed suppliers to tourists, under specified conditions. These transactions are zero-rated for ABST purposes.

8. Deductions

8.1. VAT recovery
Input tax incurred by taxable persons can be offset against output VAT as a credit, provided that it is related to the activity of making taxable supplies (including commencement and termination of the activity), and that the relevant supporting documentation is held by the taxable person.

Input tax incurred for making both taxable and exempt supplies is recovered on a pro-rata basis.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident persons are liable to ABST if they are or should be registered for ABST purposes, or on the importation of goods into Antigua and Barbuda for home use.

9.2. Registration for taxable person not established in the country
Generally, a person is required to apply for ABST registration on reaching the ABST registration threshold, which is based on a taxable activity level of EC$300,000.00 per year (roughly USD 110,000). However, registration is mandatory regardless of the activity level if the person is a promoter of public entertainment, a licensee/proprietor of a place of public entertainment, or a person who provides specified professional services.

9.3. Application Procedure
An application for ABST registration is made by submitting the completed standard application form to the regulatory authority (Inland Revenue Department). There is no provision for electronic applications.

9.4. VAT Registration: Simplification
There are no simplification procedures for ABST registration.

9.5. Alternative procedures for non-established taxable persons
There are no alternative registration procedures for non-resident taxable persons.

9.6. Exemption from the requirement to register
A non-resident supplier who is otherwise required to apply for registration, but whose taxable supplies are all made through one or more resident ABST-registered agents, may choose not to apply for registration.

9.7. Joint Liability
There is no specific provision imposing joint responsibility on related persons to register for ABST purposes. It should also be noted that for ABST purposes, a joint venture is treated as a single (separate) person.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
Generally, a person is required to apply for ABST registration on reaching the ABST registration threshold, which is based on a taxable activity level of EC$300,000.00 per year (roughly USD 110,000). However, registration is mandatory regardless of the activity level if the person is a government entity making commercial-type supplies, a promoter of public entertainment, a licensee/proprietor of a place of public entertainment, or a person who provides specified professional services.

However, the Commissioner of Inland Revenue (“Commissioner”) has the authority to require a person to combine the value of supplies made (or projected) by that person with those of related persons for the purpose of determining whether they have reached the registration threshold, and are therefore obligated to apply for registration.
A registered person is also liable for ABST (as a reverse charge) on supplies that would have been taxable (non-zero-rated) if made by a resident registered person, but made by (received from) a non-resident unregistered person, to the extent that those supplies were for other than making taxable supplies.

10.2. Registration
An application for ABST registration is made by submitting the completed paper form prescribed for the purpose to the regulatory authority (Inland Revenue Department).

10.3. VAT Identification Number
The Taxpayer Identification Number (or ‘TIN’) used for ABST purposes is a seven-digit number comprised of the Taxpayer Identification Number otherwise used for income tax purposes with an additional digit appended at the end (and a leading zero if necessary). It is issued at the time of registration for ABST purposes. E.g. 9999999-9

10.4. Tax authority
ABST is administered by the Commissioner of Inland Revenue through the Inland Revenue Department.

10.5. Invoicing

10.5.1. Valid Invoice
Valid ABST invoices can only be issued by ABST-registered persons to other ABST-registered persons, and must be properly identified as such.

They must bear the following details:

• name, address and Taxpayer Identification Number of the supplier;
• name, address and Taxpayer Identification Number of the recipient;
• date and invoice number;
• description of the supply itself;
• ABST amount and total consideration.

An ABST receipt must be issued in respect of supplies made by ABST-registered persons to non-ABST-registered persons, bearing similar prescribed details. The prescriptions for ABST receipts, however, may omit the requirements regarding the recipient.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
ABST invoices may be issued by an ABST-registered agent in respect of taxable supplies made by the agent on behalf of an ABST-registered principal.

If the principal is non-resident and unregistered but the agent is ABST-registered, ABST invoices in respect of taxable supplies made by the agent on behalf of the principal must be issued by the agent.

10.5.3. Electronic Invoicing
The ABST legislation makes no provision for electronic invoicing; however, persons who are registered as a result of exceeding the threshold are required to produce (and maintain) their records (including ABST invoices) by electronic means.

10.6. Credit notes and debit notes
Only taxpayers are allowed to issue ABST debit notes or ABST credit notes, which must be properly designated as such. These documents must meet documentary requirements similar to those applicable to ABST invoices, and form a basis for making corrections regarding ABST invoices previously issued or received.

Any adjustments to ABST will take effect in the period in which the credit or debit note is issued/received.

10.7. Books and Accounting Registers/Records
Registered persons are required to keep all books and records necessary to explain and show the calculation of their output tax, input tax, and net amount of tax payable for each tax period.
10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Documentation required to be kept for ABST purposes must be retained for 7 years from the end of the tax period to which they relate.

10.8.2. Format of Archiving
Persons who are registered as a result of exceeding the threshold are required to produce and retain their records by electronic means.

There is no prescription for the format of documentation for other registered persons. For practical purposes, paper documents have been used by the tax authority.

10.8.3. Place of Archiving
Documentation required to be kept for ABST purposes, including the server holding the electronic records must be kept in Antigua and Barbuda.

10.9. Supporting documentation
• ABST accounts;
• purchases and sales ledgers;
• invoices and debit/credit notes (whether or not they are ABST invoices or debit/credit notes) for acquisitions made by the person;
• copies of invoices and debit/credit notes (whether or not they are ABST invoices or debit/credit notes) issued for supplies made by the person;
• records of any ABST invoices for which the recipient of the supply requested a copy to be issued;
• customs and related documentation for imports/exports made by the person;
• Income and expense accounts;
• till rolls, audit rolls and tapes (if applicable);
• bank statements;
• documents or records relating to the supply of goods or services to officers, directors, and employees, whether or not the supplies were made for consideration; and
• any other documents or records related to the taxable activity, such as bookings, diaries, correspondence, computer print-outs, audit reports, contracts, or any other accounts or records in any way related to the taxable activity.

10.10. Tax period and VAT returns
A tax period corresponds to a calendar month. The ABST return is due by the end of the month following the tax period to which it relates. Returns cannot be filed electronically.

10.11. Due Date for payment of VAT
ABST payment for a tax period must be paid on the filing deadline.

10.12. Refunds of VAT
ABST incurred for making taxable activities (input tax credits) is normally offset against ABST payable on the making of such supplies. Where there is an excess of input tax credits in a tax period, it would normally be carried forward for offset in successive tax periods. A refund application may be made for any residual excess credits remaining after six tax periods. If, however, the person regularly experiences excess input tax credits, the person may apply for refunds without having to carry them forward.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
Registered persons are required to submit photocopies of input tax documentation (ABST invoices or customs warrants) with the ABST return in respect of major capital acquisitions for which ABST is claimed.
11. Auditing

11.1. Auditing
The Commissioner is entitled to audit taxpayers within the statute of limitations period and assess or reassess tax payable by the taxpayer. A taxpayer upon whom ABST has been assessed is entitled to either accept it or lodge an objection with the Commissioner. Further appeal is available to the Appeal Board and beyond that to a judge.

The Commissioner may require documents and may question persons in connection with an audit, which may be performed at the taxpayer’s site or at the Commissioner’s offices. Taxpayers are entitled to examine or copy their documents currently in the custody of the tax authorities. The Commissioner may consent to accept copies of documents or records as an alternative to originals.

11.2. E-Auditing
Currently, the Inland Revenue Department does not conduct E-auditing.

12. Penalties and risks for non-compliance

12.1. Penalties
For late filing, a penalty of 5% of the tax payable for the period is payable for each calendar month or part thereof during which the return remains outstanding after the due date, with a minimum of EC$500 (nearly USD 185). For late payment, a penalty of 20% of the unpaid tax for the period is payable.

12.2. Interest on late payments
For late payment, interest of 1% of the unpaid tax for the period is payable for each calendar month or part thereof during which the tax remains outstanding after the due date.

12.3. Joint Liability
Directors of corporations and officers of unincorporated bodies that are taxable persons are jointly liable together with the taxable person for amounts payable under the ABST legislation.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
ABST and interest and penalties calculated thereon are assessable within six years of the end of the period to which the ABST relates.

Other penalties and offences under the legislation may be imposed within three years of the relevant event or omission.

13.2. Recovery of VAT by the taxable person
An application may be made within three years for an input tax credit in respect of ABST erroneously overpaid.

14. Rulings and Decisions
The Commissioner does not have the formal authority or obligation to promulgate rulings, but may issue a position, either to the public at large or otherwise. Such pronouncements do not have legal force, but may still nevertheless be useful. Persons can request written guidance from the Commissioner on this basis.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
A person who fails to apply for registration when required to do so, is liable for a penalty of double the amount of ABST payable from the time the person was obligated to apply until the earlier of the time the person applies or is registered by the Commissioner.

The Commissioner has broad authority to prevent or reduce the tax benefit of a scheme designed solely or mainly to obtain a benefit in a way that misuses or abuses the ABST Law.

The Commissioner is empowered to require security in respect to ABST that is or may become due.
Where the Commissioner has reasonable grounds for believing that ABST on the supply/import of goods has not or will not be paid, the Commissioner may seize those goods, and in the absence of arrangements to secure or pay the ABST, sell the goods.

A person who willfully evades or attempts to evade ABST obligations can be fined up to EC$25,000 (USD 9,260) and/or imprisoned for up to two years.

Where the Commissioner has reasonable grounds for believing that a person may leave Antigua and Barbuda without paying all ABST (including any relevant penalties and interest) due, the Commissioner may arrange to have that person prevented from leaving.

The ABST legislation allows the Commissioner to collect money or property from third parties in respect of amounts payable (by a second party) under the ABST legislation, to the extent that the third party is or will be in the possession or control of money or property pertaining to the second party.

16. Other Rules

16.1. VAT withholding regimes
While it is not technically a withholding, a registered person is liable for ABST (as a reverse charge) on supplies that would have been taxable (non-zero-rated) if they were not made by a resident registered person, but made by (received from) a non-resident unregistered person, to the extent that those supplies were for other than making taxable supplies.
Antigua & Barbuda
Useful contacts

Charles Walwyn
Managing Partner
P.O. Box 1531
11 Old Parham Road
St. John’s, Antigua
Tel.: (268) 462 3000
Fax: (268) 462 1902
Email: charles.walwyn@ag.pwc.com

Neil Coates
Director
P.O. Box 1531
11 Old Parham Road
St. John’s, Antigua
Tel.: (268) 462 3000
Fax: (268) 462 1902
Email: neil.m.coates@ag.pwc.com
Argentina

1. Scope

Value Added Tax (VAT) is applicable at a federal level in Argentina. Therefore, the VAT rules are the same in all of the Argentine territory.

It is assessed on the sale and importation of goods (e.g. raw materials, produce, finished or partly finished merchandise) with few exemptions, on most services (such as construction, utilities, professional and personal services not derived from employment and rental of fixed assets).

The value added tax applies to:
• Sales of movable property within the territory of the country by a taxable person acting as such;
• The independent supplies of services within the country;
• The importation of movable property;
• The supplies of services abroad, when the effective use or enjoyment of the services takes place in Argentina and the user is a registered VAT taxable person.

As an exception, the VAT law establishes that the services provided in Argentina but actually used or exploited overseas are not deemed to take place in the Argentine territory. As a result, these services generically called “exportations of services” are not subject to this VAT.

The term “sale” of goods shall mean the transfer of the right to dispose of tangible property as owner, the transfer by a taxable person of goods forming part of its business assets for the private use of the owner of the enterprise, and the transfer of goods pursuant to a contract under which a commission is payable on purchase or sale, on its own name but on behalf of third persons.

2. Taxable Persons

2.1. Definition
Persons liable for VAT are those individuals and/or legal entities that perform business activities, as well as those persons that perform taxable transactions on a “regular basis”. In other words, “Taxable Persons” means any person who:
• Regularly sells movable property;
• Independently supplies taxable services;
• Imports goods on his own behalf and on behalf of others;
• Contracts services abroad, for use or exploitation within the country, and is a registered VAT person.
• Were Construction firms which carried out the works directly or through third parties on one’s own property, and on a profit-seeking basis or for the later total or partial sale of the real estate.
• Were lessors, in the case of leases which are assessed against.
• Were Joint ventures which falls within the scope of the previously situations.

2.2. VAT Grouping (VAT consolidation regime)
There are no VAT Grouping provisions in Argentina.

3. Place of supply

3.1. Goods
The place of supply rule applies to the sale of movable and immovable goods. The place of supply is where the goods are physically located when ownership is transferred to the customer or purchaser.
3.2. Services
The place of supply of services is where the services are physically carried out for the consumer.

Services supplied by non-residents to residents liable for VAT are taxable when used and enjoyed within Argentina, where the recipient is liable for the corresponding VAT (through self-assessment).

4. Chargeable event, chargeability of tax

The chargeable event shall occur as follows:

4.1. Goods
When goods are invoiced, payments are made (totally or partially) or when goods are delivered to the purchaser, whichever occurs first.

When an advanced payment is made prior to the delivery of the goods in order to set the price, the tax shall be chargeable at the time of the payment on the amount received.

4.2. Services
When payments are made (totally or partially) or services are completed, whichever occurs first. Continuous use of goods is also taxable when payments become due.

4.3. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. With respect to the importation of goods, the chargeable event shall occur and the tax shall become chargeable at the time the goods enter a territory of the country.

5. Taxable Amount

5.1. General Rule
As general rule, the value of the supply is the consideration (price) agreed upon by the parties to the transaction. No transfer pricing rules apply on transactions entered into between economically related parties. The consideration agreed upon for the supply shall not be lower than fair market value, unless it is duly substantiated and based on specific situations.

Adjustments to the value of supplies are permitted due to bonuses, discounts and similar commercial reasons, provided certain conditions are met. These adjustments will take effect in the period in which they occur, if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

5.2. Goods
The taxable amount on the supply of goods is the net sales price including auxiliary services and excluding all taxes and VAT chargeable.

5.3. Services
The taxable amount is the total consideration payable to the person supplying the services.

5.4. Importation
The taxable base is the value used in the customs declaration in addition to duties, charges, compensation rights, interests and other importation expenses.

Where the value of the goods includes “services” or the “value of intangible goods”, the taxable base will be determined according to the Custom Valuation Agreement of the WTO.

The VAT and excise duties are excluded from the taxable base.

5.5. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency by applying the exchange rate published in the official gazette corresponding to the date on which the supply took place.
5.6. Rounding Rules

There are no rounding provisions for calculating or reporting taxes.

6. Rates

6.1. Standard Rate
The standard VAT rate is 21%.

6.2. Increased Rate
An increased rate of 27% applies on certain transactions, such as (but not limited to):

- telecommunications;
- household gas;
- running water;
- sewerage; and
- energy.

The above mentioned rate applies only if the services are not supplied to final consumers in family houses or homes.

6.3. Reduced Rate
A reduced rate of 10.5% will apply on certain transactions, such as (but not limited to):

- construction of housing when designated as a family house or home (excludes construction on existing property which does not constitute work in progress);
- interest and other costs on personal loans granted to final consumers by financial institutions under certain conditions (when the contributor is VAT registered);
- sales and imports of living bovine animals, meat or edible spoils from bovine animals, fruits, pulse and vegetables;
- supply of publicity and advertising in some specific cases;
- any passenger transportation inside the country and when the distance does not exceed 100km;
- medical assistance in some specific cases; and
- some capital goods.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

*Exempted transactions include:*

- Sales (and transactions which involve the transfer of exempted goods) of the following goods:
  - books, leaflets and similar printings; ordinary natural water, common bread, milk, medicines, postage stamps valid for use in postal services, fiscal stamps and other similar stamps;
  - aircrafts used in commercial activities and for defense or internal safety, ships or boats acquired by the National Government.
- Betting, lottery tickets and other forms of duly authorized gambling.

*Supplies of services:*

- services supplied by the Government (National, Provincial or Local) or by public institutions, school or university education provided by private institutions subject to public educational programs;
- cultural services supplied by religious institutions;
• hospital and medical care and closely related activities, the provision of medical care in the exercise of the medical and paramedical professions: The exemption is limited exclusively to the amounts to be paid to the suppliers of services, by the social welfare entities, set up or recognized by National or provincial legal rules.

When these services are supplied by the cooperatives, mutual assistance entities and prepaid medicine systems shall enjoy the same exemptions when they correspond to services stemming from social services.

• transportation services for the sick or injured persons in vehicles specially designed for the purpose;

• tickets for theatre, cinema, musical shows and sporting events, the production and distribution of motion picture films;

• local transport of passengers (taxis, buses, and similar.) up to 100km., international transportation;

• transactions concerning deposit and current accounts in banking institutions under Law 21.526. Interest related to Interbank loan.

• the considerations inherent to the positions of director, syndics and members of the council (directors’ fees).

• the hire of real estate for housing purpose or in the case of rural properties. The rent for business purpose (except for conferences, meetings and parties) up to AR$ 1,500 monthly are also exempt (if exceed this cup the total amount will be subject to 21%).

• The work of transformation, modification, repair, maintenance and conservation of aircrafts registered abroad, when they are used in commercial activities, or for defense and internal safety.

Importations:

• of goods qualifying for exemption from customs duties under special regimes for tourists, scientists and technicians, and diplomatic agents;

• of goods qualifying for exemption from customs duties by religious institutions and other entities exempted from income tax, with the purpose of supplying non-profit medical care or carrying out scientific and technological research;

• of samples and parcels exempted from customs duties;

• of goods bestowed to National, Provincial or Local Governments;

• of services supplied abroad, when the service is contracted by the National, Provincial or Local Government.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Exports of movable goods and services are zero-rated. Input VAT related to these transactions can either be used as a credit against output VAT or refunded pursuant to a special procedure (see “Exports VAT refund regime” section below).

Services supplied within the country shall be deemed exports if they are effectively applied or economically used outside the country.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met.

Input VAT must correspond to purchases that qualify as a deductible cost or expense for income tax purposes. Where input VAT relates to transactions within the scope of VAT as well as exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

Input VAT cannot be reclaimed on: acquisition of automobiles which are not considered merchandise; supplies of certain services such as the supplies of food and beverages in restaurants or cafes; services supplied by hotels, inns, camping sites; services supplied by gyms or swimming pools; and the acquisition of clothes which are not working clothes for employees.

The VAT law also establishes that services supplied abroad but used in Argentina (“importation of services”) are subject to tax through a self-assessment mechanism, to the extent they are related to taxable activities. The
corresponding tax, once paid in to the tax authorities, can be accounted by the local subsidiary as a tax credit in the tax period immediately following to that in which the taxable event took place.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT just in case acting through a permanent establishment in Argentina or if they carry out VAT activities in Argentina through an establishment, other than a permanent establishment.

9.2. Registration for taxable person not established in the country
Argentinean legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier of taxable transactions is the person responsible to charge and account for VAT, except when the supplier of services is a non-resident in which case, VAT is self-assessed by the local recipient.

Where a VAT withholding system applies, withholding agents must account for taxes withheld in their accounting records, file the corresponding withholding returns on a monthly basis and make payments to the Tax Authorities.

10.2. Registration
There is no specific registration for VAT purposes. There is a single registration process for all tax purposes, which is the Taxpayers Unique Code (Código Único de Identificación Tributaria - CUIT). There are no thresholds for tax registration, rather only a condition of qualifying as a person subject to taxes in Argentina.

Tax registration is not required for non-residents unless they meet the requirements for any of the rules to be considered a resident in Argentina (i.e. establish a branch or permanent establishment).

The following persons are exempt from issuing invoices and from keeping accounting records of their transactions:

• Governmental entities;
• Associations and Foundations that are considered exempt for income tax purposes;
• Persons performing the functions of directors of joint-stock companies, receivers, partners, and managers of limited liability partnerships;
• Persons that supply their services on a dependent basis (e.g. employees); and
• Persons or businesses that perform supplies using ticket machines.
10.3. VAT Identification Number
The registry will assign a Taxpayer Registration Number (CUIT).

The Taxpayers Unique Code format in the case of entities is 30-XXXXXXXX-X. This consists of 11 digits, determined by a mathematical procedure.

10.4. Tax authority
The Federal Bureau of Public Income ("Administración Federal de Ingresos Públicos" - AFIP) is responsible for the administration of VAT.

AFIP is authorized to perform audits to ensure tax compliance, by reviewing the accounting records and tax returns of taxable persons. If assessments are issued as a result of said audits, AFIP is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the legislation governing the invoices requirements. The legislation provides the details of the format, dimension, expiration date and other mandatory requirements that invoices and receipts which must be met for tax purposes. Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes.

Invoices have to be categorized taking into account the tax status of the person receiving the invoice. For instance, where a supply is carried out with a tax registered person, the supplier’s invoice must be identified with the letter “A”, whereas a supply carried out with non-registered or exempt persons must be identified with the letter “B” on the supplier’s invoice. Invoices related to exports must be identified with the letter “E”.

Generally, an invoice or similar document should include the following information:

• Supplier business information: name, commercial address or domicile, VAT registration number, date of business commencement (this information must be preprinted on the invoice form);
• Tax status or type of taxpayer (general schemes, small business scheme, exempt, etc.) This information must be pre-printed on the invoice form;
• Printing company business information including authorization code and expiration date of the forms (this information must be pre-printed on the invoice form);
• Date of issuance;
• Purchaser’s business information: name, commercial address or domicile, and VAT registration number;
• Description of sold goods or rendered services;
• Quantities and unit price, tax amounts, tax rates, and total invoiced;
• The VAT tax rate applied and the amount of it.
• The rate of any discount offered.
• If amount invoiced is expressed in a foreign currency, exchange rate used must be indicated;
• Other tax details (i.e., turnover tax and VAT withholding information).

This list is not exhaustive and may vary based on the taxpayer status.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
There are no specific provisions on this topic.

10.5.3. Electronic Invoicing
This regime is mandatory only for specific businesses according to the Appendix I of R.G. 2485 (e.i. software development, consulting, accounting and audit services, exporters, advertising, mobile telecommunications, supplied services to Government, etc.) and it is optional for the rest of the taxpayers. In order to opt for applying this regime, an authorization must be obtained from the Tax Authorities. As a result, the tax authorities will assign an Electronic Authorization Code ("Código de Autorización Electrónico" - CAE).
The Fiscal Authorities are also allowed to nominate taxpayers which should apply this regime, even though their activities were not included in the Appendix I of G.R. 2485. This notification will be duly informed to taxpayers.

It is important to highlight that the Fiscal Authorities are expecting this regime to become mandatory for all the taxpayers during 2011.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records
Taxpayers have to use VAT Accounting Payable (Purchases) and Accounting Receivable (Sales) books. These books have to meet different formal requirements established by the Commerce Code, and must include the following information:

- Tax status of the supplier or customer (taxable, exempt);
- Date, numbering and type of the invoices;
- Information about the supplier or client;
- Amount of the transaction;
- Value of exempt transactions or transactions out of the scope of VAT;
- Value of withholdings, additional collection and payments in account for VAT.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Accounting records and supporting documents must be stored for at least 10 years for commerce and tax compliance from the end of the period to which they relate.

10.8.2. Format of Archiving
Accounting records and supporting documents must be archived physically. Electronic archiving is permitted for certain large taxpayers if authorized by the Tax Authorities.

10.8.3. Place of Archiving
Accounting records must be kept at the company’s domicile.

10.9. Supporting documentation
Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns
Persons subject to VAT must file monthly returns. VAT returns should be filed within the 20 calendar days following the end of the tax period to which it relates.

10.11. Due Date for payment of VAT
Any VAT due to the tax authorities should be paid when the monthly VAT return is filed.

10.12. Refunds of VAT
When the input credits exceed the output credits, the excess can be carried forward to subsequent tax periods as part of the credits for those periods until they are exhausted. The excess is not refunded to the business.

There is no refund mechanism for non-resident businesses.

10.12.1. Exports VAT refund regime
Exports are zero-rated. In addition, exporters may also compute a tax credit for VAT paid on raw materials and other purchases related to exports.

The tax credit related to exports is recoverable against output VAT. Where the taxpayer has no output VAT to offset, or when the deduction of the tax credit is only partially taken, the excess part of that credit not used will be reimbursable to the taxpayer, through a special VAT recovery regime.
Exporters must file an export return before the tax authorities, reporting the VAT credits related to their exports. This return must be filed on the tax period following to that on which the export took place, attaching a report certified by a public accountant.

The tax credit related to exports and other taxable activities can only be refunded in proportion to the exports, and can be fully refunded to a cap of 21% of the FOB value of the exported products.

There is no specific method stated in the legislation for allocating the tax credit related to exports, but taxpayers are able to use any methods of calculation that would be suitable to their business model. This calculation has to be approved by the tax authorities.

Finally, it is important to highlight that the tax authorities have to approve the tax credit to be refunded.

10.13. Additional Reporting (statements)
There are no additional reporting requirements in Argentina.

11. Auditing

11.1. Auditing
The tax authorities are entitled to audit taxpayers within the statute of limitations period. Audits consist of revising the calculation of any VAT substantial or formal requirement. Where any assessment is issued by the tax authorities, the taxpayer is entitled to either accept it or file a claim.

Assessments can be done under a real or estimated basis, depending on the specific case and the information that the taxpayers have on their transactions.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
There are many penalties derived from tax infractions, such as keeping incorrect records or where no records are kept at all.

The following are some of the penalties related to VAT:

- Failing to file the tax return: fines range between ARS 200 and ARS 400 (roughly USD 40 to USD 80);
- Underpaying taxes or reporting an overstated VAT receivable: the penalty may be 50% or 100% of unpaid taxes or incorrect tax credit;
- Tax avoidance: fines range between two and ten times the avoided tax;
- Certain tax infractions may be penalized by closing the business premises for three to ten days. In addition, fines ranging between ARS 300 - ARS 30,000 may be imposed (roughly USD 60 to USD 6,000);

Tax Penalty Amendments were introduced by the end of 2011, which became effective on January 6, 2012. The Criminal Tax Law now provides for up to nine years of imprisonment for tax and social security fraud and stipulates objective thresholds (a fixed amount of Argentinean pesos) for determining the amount of unpaid taxes that constitutes a criminal offense. Those amounts had become outdated because of inflationary pressures in Argentina since the devaluation of the peso in early 2002. Because of the outdated amounts, almost every tax dispute before the amendments triggered a criminal tax issue because the previous thresholds were too low.

The mentioned amendment quadruples the old thresholds — for example, increasing the amount that constitutes "simple evasion" from ARS 100,000 to ARS 400,000 (from approximately USD 20,000 to approximately USD 80,000), and the amount that constitutes "aggravated evasion" from ARS 1 million to ARS 4 million (from approximately USD 200,000 to approximately USD 800,000).
12.2. Interest on late payments.
Late payment of taxes is subject to a monthly 3% interest rate. Interest will start accruing on the day after the filing due date.

12.3. Joint Liability
Taxpayers are jointly liable for the tax liabilities that may derive in cases where they receive counterfeited or unauthorized invoices by their corresponding counterparties. In addition, any person that assists taxpayers on avoiding taxes will be held jointly liable.

In the case of VAT withholding, collection agents are liable with the taxpayer in connection to the amount of VAT that has to be withheld.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The tax authorities are entitled to audit and assess taxes, as well as impose penalties, for a five year period starting from 1 January of the tax year following the year in which the tax return was filed.

13.2. Recovery of VAT by the taxable person
Taxpayers have five years to claim any refund of tax overpayments. This period also starts running from 1 January of the tax year following from the year the tax becomes refundable or the overpayment is made.

As mentioned in section 10.12 above, VAT favorable balances are not refundable.

14. Rulings and Decisions
Taxpayers do not have the possibility to request rulings before the Argentinean Tax Authority.

Tax authorities, Tax Courts or Judicial Court decisions on audits or claims are binding on the parties involved in each case.

There are other cases where decisions or rulings are used to determine the interpretation of certain rules or the law itself, which would be binding on all taxpayers. These decisions are set by the Supreme Court of Justice.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
There are no specific VAT anti-avoidance or fraud measures in Argentina.

16. Other Rules

16.1. VAT withholding regimes
VAT withholding regimes are tax collection mechanisms implemented by the Tax Authorities to enforce and shorten the time in which VAT is collected from certain taxpayers and specific economic sectors.

The withholding agents are responsible for applying the withholding regimes and submitting the tax collected to the tax authority through special returns.

Argentina has different tax withholding regimes with rates ranging from 6% to 21%. These withholding regimes apply to specific transactions. The tax authorities can also appoint taxable persons as withholding agents in specific economic sectors.

The most important withholding regimes in Argentina are:

• For transactions that allow the recovery of VAT receivables;
  • Supplies of goods and services: 10.5%.
  • Supplies subject to a reduced rate: 8.40%.
  • Other services: 16.80%.
  • Gas, telecommunications and utilities are subject to a withholding rate of 8% on the amount invoiced;
• Professional fees are subject to a withholding rate of 14% on the amount invoiced;
• Food coupons are subject to a withholding rate of 6% or 17% of the amount of the supply;
• Payments through credit cards are subject to a withholding rate of 6% on the amount being paid through this means;
• Similarly, there is another special collection mechanism of VAT under which the suppliers are required to charge an additional percentage of VAT on the invoice to clients. This special scheme applies to the supply of goods.
• Some examples of supplies that are subject to this special VAT collection mechanism are the following:
  • The sale of movable goods and certain services with a rate of 5% of the consideration or price.
  • Importation of goods with a rate of 10% of the consideration or the price.
Argentina
Useful contacts

Ricardo D. Tavieres
Partner
Bouchard 557 Piso 10
C1106AAF. Ciudad de Buenos Aires, Argentina
Tel.: +54 11 4850 6000
Direct: +54 11 4850 6722
Email: ricardo.d.tavieres@ar.pwc.co

Fernando Lopez Menendez
Senior Manager
Bouchard 557 Piso 10
C1106AAF. Ciudad de Buenos Aires, Argentina
Tel.: +54 11 4850 6000
Email: fernando.lopez.menendez@ar.pwc.com

Rodolfo Feito
Manager
Bouchard 557 Piso 10
C1106AAF. Ciudad de Buenos Aires, Argentina
Tel.: +54 11 4850 6000
Email: rodolfo.feito@ar.pwc.com
1. Scope

Value Added Tax (VAT) was introduced in Bolivia in 1986 and applies nationwide. Bolivia does not have a federal system, which means that all the Bolivian territory is subject to the same rules (unless it is established otherwise by the Government).

The following transactions are subject to VAT:

• Supply of movable goods within Bolivian territory. This does not include the transfer of goods or sales that are a result of a company’s reorganization process or if they are asset contributions to the company.
• Supply of services within Bolivian territory. This does not include interest generated on loans granted or deposits received by financial institutions. Any other supply of services provided by financial institutions paid by way of commissions, fees or any other kind of retribution are subject to VAT.
• Construction contracts;
• Final imports of goods into Bolivian territory; and,
• Financial leasing contracts with the option of purchase except for real estate.
• Supply of goods is understood as any transaction for consideration that entails the transfer of property, irrespective of its denomination, exchange of goods, payment with other goods different from money, expropriation, and similar transactions that pursue the same purpose. This definition includes the contribution of goods into construction contracts and supplies of services.

2. Taxable Persons

2.1. Definition

Taxable persons are those individuals or legal entities that perform any of the following activities:

• Dedicate on a regular basis to sell movable goods;
• Perform tasks or supplies of any kind of services;
• Rent of movable or immovable property;
• Final importation of goods on their own behalf;
• Sell movable goods on their own behalf or on behalf of a third party; and
• Financial leasing of movable goods.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Bolivia.

3. Place of supply

Bolivia is governed by a territorial tax system in which only Bolivian sourced income is subject to income tax. This principle also applies for VAT; this means that VAT will be applicable provided that the activities subject to VAT are carried out within Bolivia.

3.1. Goods

The place of supply of goods is where the goods are located at the time of the transfer. Therefore, VAT only applies to supplies of goods located should these goods be located within the Bolivian territory.

3.2. Services

The place of supply of services is where the services are physically carried out either in favor of the consumer or the final user.
4. Chargeable event, chargeability of tax

4.1. Goods
At the delivery date or performance of an act that implies the effective transfer of goods for legal purposes.

Financial leasing contracts: At the due date of each installment and with the payment of the balance of the price when the purchase option is formalized.

4.2. Services
At the end of the execution of the service or when the consideration for the services is received, totally or partially.

Construction contracts: At the reception of every construction certificate, or the reception of every payment.

4.3. Imports
At the moment of customs clearance.

5. Taxable Amount

5.1. General Rule
The flat sales price constitutes the taxable amount. This includes ancillary services and financial expenses linked to deferred payments, including those related to financial leasing. The flat sales price can be reduced by:

- Bonuses and discounts;
- Returnable packing value; or,
- Specific consumption taxes and special tax on hydrocarbons and derived products.

The tax is included itself within the flat sales price and is not shown separately in the invoice and/or tax voucher.

In case of imports, the taxable amount is the Customs value (CIF - costs, insurance and freight) stated on the customs declaration accepted by the corresponding customs authorities, plus the amount of rights, customs fees, and any other expenditure necessary for customs clearance. In case of importation of capital goods, all but 10% of VAT and custom duties can be deferred for a period of 36 months.

5.2. Exchange Rate Rules
As general rule, all invoices should include the price expressed in local currency (Bolivianos). If the taxable amount is expressed in a foreign currency it should be converted to local currency at the exchange rate published by the Central Bank of Bolivia applicable to the day on which the respective transaction takes place.

5.3. Rounding Rules
The VAT payable has to be rounded up or down depending on the case, so there are no decimals when the tax is reported.

6. Rates

6.1. Standard Rate
The nominal tax rate is 13% but as the tax is charged on the final invoice price -VAT inclusive - the effective rate is 14.94% (13%/87%). VAT must not be shown separately on invoices.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
There are no reduced rates.
7. Exemptions

7.1. Exemption with no right to deduct input VAT

The following are exempt of the VAT:

- Imports of goods by members of diplomatic bodies accredited in the country;
- Merchandise imported by travelers into Bolivia (Bona fide) with a maximum value of USD 1,000;
- Premiums and life insurance policies;
- Capital profits:
  - Generated by sales/purchases of stock and credit certificates.
  - From valuation processes determined the Pension, Values, and Insurances Regulatory Authorities.
  - Adjustments resulting from the application of generally accepted accounting principles on the subscribed values of shares registered in the stock exchange.
- Transfers of goods or assets subject to securitization processes in charge of the securitization associations, including the registration rates;
- Financial intermediation, insurance, pensions, and investments portfolio, transactions in the stock market, either sale or transfer;
- Every transaction with public bid values registered in the Stock Market Registry, made within Bolivia and which has effects in Bolivia;
- Tourist and lodging services by hotels to foreign tourists without a residence or address in the country;
- Artistic events organized by Bolivian artists in respect of national production, performance and broadcasting of theatre, dance, national music, painting, carving and films.
- International ground transportation services.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

This regime only applies to exports of goods and services. Although international ground transportation services are subject to the zero rate, these services are not considered exports and therefore no refund is granted on input VAT related to them.

8. Deductions

8.1. VAT recovery

Input VAT paid can be offset against output VAT, provided that it relates to the furtherance of a taxable transaction and additional requirements are met. Input VAT originated at the start-up stage can also be recovered.

In every case, input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes, even when the taxpayer is not liable to income tax. When the input VAT relates to taxable transactions, exempt transactions, and/or transactions that are out of the scope of VAT, only a portion of the VAT can be recovered for which a pro-rata calculation is used.

Payments of purchases that generate input VAT are required to be supported with banking documentation that demonstrates the payment.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

Although there are no specific rules regarding permanent establishment, if a taxable event is taking place within Bolivian territory, the Tax Authorities may assess the payment of the corresponding VAT.

9.2. Registration for taxable person not established in the country

The legislation does not provide any registration mechanism for non-established businesses.
9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There is no simplification regime for VAT registration.

9.5. Alternative procedures for non-established taxable persons
The legislation does not provide any registration mechanism or procedure for non-established businesses.

9.6. Exemption from the requirement to register
There is no exemption from the requirement for tax registration.

9.7. Joint Liability
There is no joint liability for registration according to the VAT regulations in Bolivia.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is the person responsible to charge and account for VAT. This rule will not apply where the supplier of services is a non-resident.

10.2. Registration
There is no specific registration for VAT purposes. There is a single registration process for tax purposes, which is the Tax Identification Number (“Número de Identificación Tributaria” - NIT). There are no thresholds for tax registration, but the only condition is being regarded as a taxpayer in Bolivia for tax purposes.

Tax registration is not required for non-residents unless they meet the requirements for any of the rules to be considered a resident in Bolivia (i.e., establishment of a branch).

10.3. VAT Identification Number
Upon registration, the Tax Authorities will automatically grant a Tax Identification Number (NIT), being applicable for VAT purposes as well.

10.4. Tax authority
The Internal Tax Service (“Servicio de Impuestos Nacionales” - SIN) is the entity responsible for the administration of VAT.

SIN is entitled to perform audits to ensure tax compliance by reviewing the taxpayers accounting records and tax returns. If assessments are raised up as a result of an audit, SIN is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the Invoices Regulations. The Regulations provide the format, dimensions, expiration date and other information that invoices and receipts must meet for tax purposes. Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Tax rules allow taxpayers to take care of billing or outsourcing this work to third parties.

Nevertheless, in any case, the invoices have to be printed with the taxpayer’s information.

10.5.3. Electronic Invoicing
Electronic invoicing is permitted in Bolivia. The taxpayers and others responsible third parties must connect their systems to the Tax Authorities’ electronic systems to use these electronic invoices. These documents are thoroughly controlled by the Tax Authorities via specific control codes assigned by them.

In order to use electronic invoices, the taxpayers and others responsible third parties must be firstly registered in a special registry of the Tax Authorities.
10.6. Credit notes and debit notes
These documents must be approved by the Tax Authorities being used when taxpayers need to make adjustment to transactions already invoiced (e.g. returning of sold goods or cancellation of services). These documents can be only issued in transactions specifically ruled by the VAT legislation.

10.7. Books and Accounting Registers/Records
VAT taxpayers that issue invoices, tax notes or similar documents are obliged to have accounts receivable (purchase) and accounts payable (sales) registers, where every transaction supported in those documents are registered.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Tax related documents have to be kept for a period equivalent to the statutory tolling period and can be extended for 3 additional years in case the taxpayer has not registered properly before the Bolivian tax authorities.

During 2012, statutory tolling period has been modified from 4 up to 10 years, which will increase on a gradual basis as from fiscal year 2012, i.e. 4 years for FY 2012, 5 years for FY 2013, 6 years for FY 2014 and so on until FY 2018.

10.8.2. Format of Archiving
There are no specific provisions on this topic.

10.8.3. Place of Archiving
Tax related documents should be archived and kept in the business domicile for tax purposes.

10.9. Supporting documentation
Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities may initiate additional assessments during tax audits.

10.10. Tax period and VAT returns
VAT returns need to be filed on a monthly basis, meaning that a taxpayer must file 12 VAT returns per year. VAT returns must be filed according to tax calendar pre-set and approved by the Tax Authorities. The calendar is set according to taxpayers' ID numbers.

The VAT return has to be filed on the assigned calendar date of the month following the tax period to which it relates. Large and special taxpayers file electronic returns through the tax authorities' website.

10.11 Due Date for payment of VAT
The payment should be done between the 13th and the 22nd day of month following the tax period to which it relates. The due dates are pre-determined according to the calendar as referred above.

10.12. Refunds of VAT
In the event that the input VAT exceeds the output VAT, the VAT credit balance can be carried forward to subsequent tax periods until the VAT credit is finally offset.

The remaining VAT credit balance is not refunded to the business unless a corporate restructuring process is carried out (e.g. a merger between two Bolivian companies).

Only input VAT related to exports is subject to refund. Refunds are supported by means of tax refund certificates (Certificados de devolución de impuestos - CEDEIM's for its acronym in Spanish). These are commercial documents that can be transferred through their endorsement at a discounted rate. These documents do not expire and can be used to pay any tax that is administrated by the Tax Authorities.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
There are no additional reporting requirements.
11. Auditing

11.1. Auditing
The Tax Authorities are entitled to audit taxpayers within the statute of limitations period. Audits consist of reviewing the calculation and compliance of VAT. Where the Tax Authorities raise any assessment, the taxpayer is entitled to either accept it or challenge it.

There is no specific schedule within the year to perform a tax audit and the Tax Authorities are entitled to review any of the open tax periods.

Audits are usually performed at the taxpayer’s premises.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risk for non-compliance

12.1. Penalties
Penalties related to VAT compliance include:

• Penalty for failing to register for tax purposes: 2,500 UFV (roughly USD 650) and closing of the establishment. UFV (Unidad de Fomento de Vivienda) or Household Indexed Unit is a reference unit indexed to inflation used for adjustment purposes.
• Penalty for the failure in the issuance of valid invoices or any equivalent documents:
  • When the offence is committed for the first time, immediate closing of the business for three days or a penalty equivalent to ten times the value of the transaction for which an invoice was not issued.
  • In case of relapse, closing of the business from six to forty eight days.

12.2. Interest on late payments
Interest rate on late payments is 9.02%. This rate is updated on a monthly basis considering the Central Bank information.

12.3. Joint Liability
There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The tax authority is entitled to audit and assess tax liabilities according to the following:

As stated above, statutory tolling period has changed as from Fiscal Year (FY) 2012 from 4 years up to 10 years, which will increase on an annual basis as follows:

• FY 2012: 4 years
• FY 2013: 5 years
• FY 2014: 6 years
• FY 2015: 7 years
• FY 2016: 8 years
• FY 2017: 9 years
• FY 2018: 10 years

In addition to the above, an additional 3 year period must be considered when taxpayers have failed to register or have registered incorrectly.

In any case, the statute of limitations should be calculated from 1 January of the year following to that on which the tax obligation arose.

13.2. Recovery of VAT by the taxable person
Taxpayers have a period of three years to reclaim refunds of overpaid VAT.
14. Rulings and Decisions

There are no case by case rulings for tax purposes in Bolivia. Taxpayers may access rulings on a specific topic, where a formal request is referred through banking, commerce or other representative institution.

Tax Authorities’ decisions on audits or claims are not binding. Similarly, responses to any particular consultation submitted to the Tax Authorities are binding only for the party involved.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
There are no anti-avoidance measures to prevent fraudulent schemes.

16. Other Rules

16.1. VAT withholding regimes
There is no VAT withholding regime in Bolivia.
Bolivia
Useful contacts

**Cesar Lora Moretto**  
**Partner**  
Ana María Building, Mezzanine 2, 383 Villegas Passageway  
Avenida Mariscal Santa Cruz y Yanacocha  
Edificio Hansa, 19th Floor  
La Paz, Bolivia  
Tel.: +591 2 2971742 ext. 221  
Email: cesar.lora@bo.pwc.com

**Eduardo Aramayo**  
**Director**  
Ana María Building, Mezzanine 2, 383 Villegas Passageway  
Avenida Mariscal Santa Cruz y Yanacocha  
Edificio Hansa, 19th Floor  
La Paz, Bolivia  
Tel.: +591 2 2971742 ext. 221  
Email: eduardo.aramayo@bo.pwc.com

**Cynthia Cortés**  
**Senior Manager**  
Ana María Building, Mezzanine 2, 383 Villegas Passageway  
Avenida Mariscal Santa Cruz y Yanacocha  
Edificio Hansa, 19th Floor  
La Paz, Bolivia  
Tel.: +591 2 2971742 ext. 221  
Email: cynthia.cortes@bo.pwc.com
1. Scope

The Brazilian tax system is complex and has been subject to constant alterations. The text below contains very general information applicable to each of the taxes mentioned below. It is important to note that the respective legislation includes various exceptions to the general stated rules. In the case of the State VAT, although a federal law should be followed, each State issues its own legislation with some differences from the federal law.

The Brazilian indirect tax system comprises essentially three taxes: (i) Value Added Tax on Sales and certain Services (ICMS); (ii) the Excise Tax (IPI); and (iii) the Service Tax (ISS), State, Federal, and Municipal taxes, respectively.

In view of the similarities in certain cases regarding tax calculation and collection, we also include the federal taxes on gross revenue: the Contribution for Social Integration Program (PIS) and the Contribution for Social Security Financing (COFINS).

**Value Added Tax on Sales and Services (ICMS)**

The ICMS is a State tax levied on the circulation of products and rendering of certain services. Its applicability occurs on the following transactions:

- Supply of goods and electric energy;
- Supply of certain services (intermunicipal and interstate transportation and telecommunication services); and
- Importation of the goods and services listed above.

The ICMS is a non cumulative tax, which means it only applies over the aggregated value of each stage of the circulation process. The taxpayer shall monthly calculate the difference between credits and debits arising from its transactions. In case debts supplant credits, the difference should be collect by the taxpayer.

Exportation transactions are not subject to the ICMS.

**1.1. Withholding ICMS (“ICMS-ST”)**

In order to avoid illegal tax evasion, enhance the fiscal control process, and allow previous tax collection, the legislation may appoint a single taxpayer of a product’s chain as the sole liable party, who will collect the ICMS due by all parties until the final consumer.

**Contribution for Social Integration Program (PIS) and Contribution for Social Security Financing (COFINS)**

The PIS and COFINS are both federal taxes which have the monthly revenue earned by the taxpayers as taxable events and taxable amount.

The monthly revenue consists of all of the company's income, regardless of its denomination or accounting classification.

Entities obliged to calculated and pay the Corporate Income Tax using the actual profit are subject to the non cumulative method of the PIS and the COFINS, which are calculated at 1.65% and 7.60% rates respectively. In this case the offsetting of credits is allowed in relation to certain costs and expenses used in the production process of goods and services, calculated with the same rates PIS and COFINS do not apply on revenue arising from exportations. However, due to an express legal provision, the maintenance of credits arising from acquisition of inputs, among other situations set forth by law, is authorized, even when related to exportations.

Companies pertaining to certain economic sectors listed by law as well as entities opting for the Presumed Profit method of the Corporate Income Tax (“IRPJ”) are subject to the cumulative system of PIS and COFINS calculation under 0.65% and 3% rates, respectively. In these cases, however, the use of credits arising from the acquisition of inputs and other expenses related to the company's activities is not allowed.
Furthermore, it is important to note that importations of services and goods are also subject to the PIS and COFINS.

**Excise Tax ("IPI")**

The excise tax is a federal non cumulative tax levied on industrialized and imported products in accordance with the product’s tariff code set by law and does not levy on exportation.

**Municipal Service Tax - ("ISS")**

The ISS is a municipal tax levied on the provision of a list of services contained in Supplementary Law number 116/03 even if such services do not relate to the company’s main activities.

It is charged on a cumulative basis and the rates may vary from 2% to 5%, according to the municipality law.

Importations of services are also subject to the ISS. In these cases, the legislation appoints the service contracting party as the liable party.

The ISS is not applicable on the exportation of services. However if the result of a certain service is verified to occur in Brazil, the tax is charged, even if the payment for such service is made by a foreign resident.

2. Taxable Persons

2.1. Definition

In summary, persons liable to the Brazilian indirect tax are individuals or entities that perform any of the activities that are within the scope of the ICMS, ISS, PIS, COFINS and / or IPI laws.

**ICMS:** The taxpayer is any corporate entity or individual that/who, either regularly or in a commercial volume, carries out inflow or outflow of goods or service transactions subject to payment of ICMS, even if such transactions commenced overseas (according to Supplementary Law number 87/96).

Furthermore, other parties, designated by the law and involved in the ICMS taxable transaction chain, are liable for the tax collection.

**IPI:** The main IPI taxpayers are:

- The importers in respect of the taxable event arising from the customs clearance of imported products;
- The industrial establishments in respect of the taxable event arising from the shipment of the product processed in such establishments;
- The establishments qualified as industrial,
- The following, among others, are required to pay this tax as liable parties:
  - The transporter, in respect of the taxed products transported, but not accompanied by documents supporting its origin;
  - Entities that own exempt products subject to labeling or control seal and lacking such label or seal;
  - Entities that disobey regulations related to the tax’s exemption or suspension.

**ISS:** The taxpayer is the party that effectively renders the services set forth in the list of services provided by the law (Supplementary Law number 116/03).

Municipal legislation may also expressly attribute liability to a third party, relating to the taxable event of the respective obligation.

**PIS/COFINS:** PIS and COFINS taxpayers are corporate entities.

PIS/COFINS taxpayers on importations are the following (as per article 3 of Law number 10.865/2004):

1. The importer (individual or entity bringing goods from abroad);
II. The individual or entity taking services from an individual or entity domiciled abroad; and III. the services’ beneficiary in case the contracting party is also located abroad.

2.2. VAT Grouping
There are no VAT Grouping provisions in Brazil.

3. Place of supply
For Indirect Taxes collection purposes as a rule, the establishment where the merchandise is located at the moment of the taxable event is deemed the place of supply.

ISS: For ISS purposes, the service is considered to be rendered (and the tax due) at the location of the rendering establishment except for some services such as construction, demolition, cleaning, gardening, entertainment, in which the rendering is considered provided at the place where the services are executed.

ICMS: In relation to the services subject to ICMS, the following places are considered as locations of services:

- For transportation services: the place where service has initiated as well as other cases presented by law.
- For communication services: the location where the service of radio diffusion of sound and image. Such location is understood to be the place of the generation, emission, transmission, retransmission, replaying, amplification and reception, as well as other cases presented by law.

4. Chargeable event, chargeability of tax
The chargeable event of these taxes in Brazil occurs by the execution of any activity that is within those taxes scope, as previously mentioned.

In relation to the PIS and COFINS, the taxable event is the recognition of revenue arising from sales and services providing, regardless of their denomination or accounting classification.

4.1. Goods
In relation to taxes applicable on transactions with merchandise, the taxable event is given in the following circumstances:

ICMS: The ICMS taxable event occurs, among others, upon the outflow of merchandise from the taxpayer’s establishment, even when addressed to another establishment of the same entity.

IPI: IPI taxable event occurs in local market transactions involving industrialized goods. Such event is the outflow of products from entities considered as industrial for legal purposes.

4.2. Services
In relation to taxes applicable on service transactions, the taxable event occurs upon the following situations:

ICMS: the taxable event on services subject to the ICMS, as a rule occurs upon the beginning of the service rendering subject to the tax; and

ISS: The ISS taxable event is the rendering of any of the services mentioned in the list of services, even if such services are not the main business activity of the provider.

4.3. Imports
The taxable event of indirect taxes applicable on import occurs on the following situations:

ICMS: The ICMS taxable event occurs upon:

- Customs clearance of merchandise or goods imported from abroad;
- The receiving of services rendered abroad;

ISS: The tax is also applicable on services that are originated abroad.

IPI: In import transactions, the taxable event occurs during the customs clearance of the imported products.

PIS-Import and COFINS-Import: The taxable event occurs upon:

1. The entrance of goods from abroad;
II. The payment, the credit, delivery, employment or remittance of amounts to parties residing or domiciled abroad as a counter payment for a service rendered.

5. Taxable Amount

5.1. General Rule
ICMS: The ICMS calculation basis varies according to the transaction (sales, transfers etc). As a rule, the calculation basis is the value of the operation on the shipment of the respective merchandise including freight costs if this is charged separately by the remitting party; the IPI amount due when the transaction involves a product to be utilized or consumed or for the fixed assets of the purchasing company; and amounts charged for assembly and installation, provided this is established in the respective purchase and sale agreement.

Rendering of Services subject to the ICMS
On the rendering of interstate or intermunicipal transportation or communication services, the taxable amount is the price of the service.

Imports
The ICMS levied on import operations is calculated over the amount stated in the import documents, converted into Brazilian currency at the same foreign exchange rate used on the calculation of the Import Tax, plus the amount of the import tax, excise tax, foreign exchange transaction tax, and other customs expenses or taxes effectively paid (Supplementary Law 87/96, article 13, item V and article 14).

Operations subject to the Withholding Tax System
For the operations subject to the withholding tax system, the ICMS tax base corresponds to the maximum or sole sale price used by the substituted taxpayer, established by the manufacturer, importer, or by the relevant authority.

The ICMS itself will always integrate the ICMS taxable amount, grossed up.

ISS: In general, the ISS tax base corresponds to the price of the service.

The ISS is applicable on the material used for the service providing activity when specifically set forth by the law.

PIS and COFINS:
For local market transactions to both cumulative and non-cumulative methods of PIS and COFINS calculation, the taxable amount of such taxes corresponds to the entity’s monthly revenue.

On import transactions, the PIS and COFINS taxable amount corresponds to:

(i) on the entrance of foreign products in Brazil, the value that would be considered the Import Duty tax base, plus ICMS and PIS/COFINS itself (excluded the Import Tax); or (ii) on cases of payment, credit, delivery, employment, or remittance of values to foreign residents as retribution for service provision, the amount paid, credited, delivered, employed, or remitted abroad before income tax payment, plus ISS and PIS and COFINS themselves.

IPI: The IPI tax base varies according to operation implemented, as per the following rules:

Local market transactions
Total transaction value, including legal additions and deductions.

Imports
The value that would be used as tax base of customs taxes by occasion of customs clearance, or the total value of the sales operation from the establishment equivalent to an industrial establishment.

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published in the official press corresponding to the date on which the supply took place.

5.3. Rounding Rules
There are no specific provisions for reporting taxes.
6. Rates

6.1. Standard Rate
ICMS: The importation and intrastate transactions with goods are normally subject to ICMS at the rate of 18%. This rate may vary (from 17% to 19%), depending on the legislation of the State in which the transaction takes place.

Interstate rates are 7% or 12%, depending on the case.

IPI: Tax rates vary in accordance with the nature of the product (following the constitutional principles of essentiality and selectivity) and respective tariff code.

ISS: The applicable rates are determined by each municipality varying from 2% up to the maximum of 5%.

PIS and COFINS: At non cumulative tax system PIS and COFINS are generally levied at the rate of 1.65% and 7.60%, respectively, with certain exceptions. Under cumulative system, the rates are 0.65% and 3%, respectively.

6.2. Increased Rate
ICMS: In regards to ICMS calculation, the application of increased rates varies according to the essentiality of the products and goods. In general, the highest ICMS rate levied on internal operations is 25%. However, some States establish even higher rates for certain operations.

IPI: IPI is calculated at rates that vary according to the degree of essentiality superfluous products. ISS: Currently, ISS rates established by Municipalities cannot be higher than 5%.

PIS and COFINS: Operations related to items from certain economy sectors are subject to a different PIS and COFINS calculation methods which provide the application of increased rates.

6.3. Reduced Rate
ICMS: The intrastate transactions with essential goods are subject to a 7% rate. Lower rates may be applicable for specific cases.

IPI: Considering that IPI is calculated at rates that vary according to the degree of essentiality, some products are taxed by a rate of 0%.

ISS: Currently, ISS rates established by Municipalities are not allowed to be lower than 2%, as per Federal Constitution.

PIS and COFINS: Some products expressly mentioned by the law are subject to a 0% PIS/Cofins rate.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
ICMS: No credits of ICMS can be appropriated on exempt or non-taxed purchases. Additionally, the taxpayer shall write-off the ICMS credit on acquisitions of taxed products or services that integrated the industrialization process on situations that the output of the resulting product is not taxed or is exempt from ICMS (please see additional comments on next subtopic).

IPI: In general terms, no credits of IPI can be appropriated on exempt, non-taxed or zero rated purchases, (please see additional comments on next subtopic). Sales with suspension, exemption, taxed at zero rate, or not subject to the IPI do not prevent the seller from retaining the credits deriving from the purchase of taxed inputs.

PIS and COFINS: Cumulative system - Entities subject to the cumulative system are not allowed to calculate any kind of credit related to costs or expenses of the entities.

Sales with suspension, exemption, taxed at zero rate, or not subject to the PIS and COFINS taxation, do not prevent the seller from retaining the credits deriving from the purchase of taxed inputs.
7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

ICMS, IPI, PIS and COFINS: The abovementioned write-off will not take place on credits related to inputs applied into a manufacturing process of goods to be exported or, despite of the exemption, when the legislation expressly determines the credit maintenance.

8. Deductions

8.1. VAT recovery

ICMS and IPI: ICMS and IPI are non-cumulative taxes, which mean that the taxpayers are entitled to record credits related to the purchase of taxed inputs (including services). Hence, in accordance with the legislation, as a rule, the taxpayer is allowed to offset the credits on inflow against the debts triggered subsequently. For such tax recovery, taxpayers shall perform the registry on debt and credit corporate books in accordance with the inflow and outflow of goods books. The registry shall consider recorded debits and credits for the final balance between both.

In case the calculation results in a credit balance, it can be transferred to the subsequent period for offsetting purposes. If the calculation results in a negative difference, the taxpayer shall collect such amount with the specific payment voucher.

PIS and COFINS: Corporate entities subject to the non-cumulative calculation of PIS and COFINS may calculate credits on expenses resulting from the acquisition of goods to be resold or the acquisition of products used in production of goods, among other legally provided scenarios.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities

The foreign company may not initiate its activities before accomplishing all the legal requirements.

9.2. Registration for taxable person not established in the country

There are no specific provisions on this topic.

9.3. Application Procedures

There are no specific provisions on this topic.

9.4. VAT Registration: Simplification

There are no specific provisions on this topic.

9.5. Alternative Procedures for non established taxable persons

There are no specific provisions on this topic.

9.6. Exemptions from requirements to Register

There are no specific provisions on this topic.

9.7. Joint Liability

There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT

In accordance to the current legal system, enterprisers and corporate entities are obliged to maintain and keep account of their respective documentation.

In relation to transactions subject to indirect taxes, all involved parties shall make the corresponding registries in corporate books.

10.2. Registration

Please refer to our comments below.
10.3. VAT Identification Number

The VAT and the CNPJ identification numbers are obtained upon the enrollment in the National Corporate Registry.

State Register

Furthermore, individuals or entities intending to perform regular transactions subject to the ICMS, shall be enrolled in the ICMS Taxpayers Registry, kept by the State Finance Secretariats.

Once the enrollment is granted, a corresponding number is provided and shall be used for every fiscal document issued by the taxpayer. The lack of an ICMS State Registry Number does not permit the company from performing the ICMS taxable transactions.

Municipal Taxpayers' Registry

Taxpayers subject to the ISS shall be enrolled with the Municipal Taxpayers' Registry.

10.4. Tax Authority

The administration and control of indirect taxes are under the jurisdiction of the following organs, according to their sphere of action (federal, state or municipal):

- **IPI, PIS e COFINS (Federal Taxes):** The Brazilian Federal Revenue Services - “Secretaria da Receita Federal do Brasil”
- **ICMS (State VAT):** State Finance Secretariats - “Secretarias de Fazenda dos Estados - SEFAZ”
- **ISS (municipal tax):** Municipal Finance Secretariats “Secretarias de Finanças dos Municípios”.

10.5. Invoicing

10.5.1. Valid Invoice

Brazilian legislation requires specific models of fiscal documents to be issued, depending on the type of activities performed.

Fiscal Invoices, as well as other commercial papers related to indirect taxes shall be maintained for a 5-year term, due to the statute of limitation.

The invoice’s addressee is legally obliged to request a regular fiscal document containing all legal requirements.

For companies issuing the electronic invoice (NF-e), the corresponding auxiliary document (DANFE) shall be issued in replacement of invoices type 1 and 1A, since the invoice is electronically transferred to buyers and fiscal authorities.

10.5.2. Issuance of a Valid Invoice - Outsourcing and Self-Billing

The fiscal document, which cannot be amended or contain erasures, shall be issued in any undeletable graphic mean. Such process can be electronic, mechanical or manuscript, provided that documents and all forms are legible.

10.5.3. Electronic Invoice

In 2005, a project for the implementation for digital bookkeeping containing other sub-projects, one of which, the electronic invoicing (NF-e), was started.

The NF-e project’s objective is to implement an authentic national fiscal document (invoice) model used in the replacement of paper invoicing, simplifying taxpayers’ ancillary obligations. The authenticity of such document shall be granted by the sender’s digital signature. Additionally, the electronic sending of such documents, allows fiscal authorities to perform real-time control of commercial transactions.

The use of the NF-e, so far is only obligatory to certain economic activities set forth by a national chronogram jointly established by Federal, State, and Municipal fiscal authorities.

In other words, the NF-e issuing company shall generate and electronic file containing fiscal information of the commercial transaction carried out by the company. Such document shall be electronically signed in order for the documents’ integrity to be guaranteed. Such electronic file corresponds to the NF-e and shall be transmitted via the internet to the taxpayers State Finance Secretariat (SEFAZ) prior to the outflow of goods.
The secretariat will validate the file and return the taxpayer a reception protocol (Authorization for Use). Without such protocol the products’ transit is not allowed.

The NF-e shall also be transmitted to the Federal Revenue Services (which shall figure as the national storage for such documents in the Federal sphere), the State Finance Secretarial in interstate transactions, the Suframa in cases concerning shipment of products to benefited areas. The SEFAZ and Federal Revenue shall enable an internet consulting site for the addressees and other interested parties.

An Auxiliary Document for the Electronic Invoice “DANFE” shall be printed and carried out with the products in transit in a single form (normal paper) containing the web NF-e consulting key and a bi dimensional bar code to help obtain data confirmation by fiscal authorities.

The DANFE is not an invoice nor does it replace such document. Its is merely used as an auxiliary document for NF-e consultation purposes as it contains the electronic invoice’s access key which allows the confirmation of the NF-e’s existence in the National Environment (Federal Revenue Services) or the State Finance Secretariat’s website.

The addressee, can register the information contained in the DANFE for bookkeeping purposes. Its validation, however, depends on the effective existence of a NF-e in the related tax administration files involved in the process. The issuing taxpayer shall perform its bookkeeping through both issued and received electronic invoices.

**10.6. Credit and Debit Notes**

Brazilian tax legislation only permits the following documents to be used for correcting information included on tax documentation:

**10.6.1. Correction Letter**
The Correction Letter is an instrument that may be used to correct any errors made when the invoice or tax document was issued, as long as the errors do not relate to specific circumstances determined by the Law (i.e., changing the tax amount disclosed).

**10.6.2. Supplementary Invoice**
The Supplementary Invoice is issued under the same requirements provided for in the legislation for the issuance of tax documents. It may be issued to correct price adjustments due to price differences or to complement the tax due.

**10.6.3. Credit and Debit Notes**
Credit and debit notes are used when the original tax documents indicate a quantity of goods that are higher or lower than the amount effectively sent. However, despite their frequent acceptance in commercial practices, they are not tax documents provided for in the Brazilian legislation, and its inclusion in tax books is prohibited.

**10.7. Books and Accounting Registers/Record**

**ICMS and IPI:** The Brazilian legislation sets forth a diverse list of ancillary and bookkeeping obligations to be followed by taxpayers. For the compliance of such obligations, we note that each establishment (head establishment, branch, agency, warehouse or any other) shall keep its own documents. Digital Bookkeeping (“Escrituração Fiscal Digital”) Digital Bookkeeping is a subproject within the Public Digital Bookkeeping System “Sistema Público de Escrituração Digital” or “SPED” and consists of a digital application of Inflow and Outflow Registries, ICMS, including the withholding ICMS, IPI, PIS and COFINS calculation and Inventory. Considering a specific chronogram set by Law, since 2009 companies are being obliged to generate such digital files and send them to the Fiscal authorities via internet through specific software made available by the Brazilian Federal Revenue Services.

In order to comply with ancillary obligations related to the ICMS, we note that companies shall issue and keep the electronic returns as well as maintain specific files and magnetic registries. Among all other magnetic files, taxpayers shall generate the SINTEGRA file, comprising information related to interstate transactions carried out monthly.

**ISS:** ISS taxpayers shall keep the legally provided fiscal books in each of their establishments. The bookkeeping of such books can be either manual or electronically processed. In replacement of some bookkeeping forms, some municipalities, such as São Paulo have authorized the use of reports available through the Electronic Service Return “DES” or “Declaração Eletrônica de Serviços” software.
**PIS and COFINS:** Among the ancillary obligations related to the PIS and COFINS, we stress the Federal Taxes’ Debt and Credit Return ("DCTF" or "Declaração de Débitos e Créditos de Tributos Federais"). The return’s purpose integral term is to provide information related to the debt of Federal Taxes and Contributions and their respective credits, such as payments, installments or compensations, as well as the PIS and COFINS Calculation ("DACON" or "Demonstrativo da Apuração do PIS e da COFINS").

The DCTF and DACON shall be generated through the use of specific software available at the Brazilian Federal Revenue Services’ website and shall be delivered every month or semester through the internet by all taxpayers with the exception of expressly stated situations.

**10.8. Retention of and access to: books, registers, records, and invoices**

**10.8.1. Retention period**
Mandatory corporate and fiscal books as well as the receipts for the recorded information shall be conserved until the statute of limitations of the tax credits arising from the pertaining transactions. This period in Brazil corresponds to 5 years.

**10.8.2 Format of Archiving**
Bookkeeping related to the VAT fiscal books, shall be made in the terms and forms set by the law.

**10.8.3. Place of Archiving**
In view of the autonomy granted to each corporate establishment (branches, agencies, warehouses, etc.) the storage of fiscal documents shall be individually kept in each of them.

**10.9. Supporting Documentation**
The taxpayers are obligated to keep the necessary information and documentation in order to prove the nature and legitimacy of the performed transactions until the term set by the statute of limitations (5 years).

**10.10. Tax period and VAT Returns**

**ICMS:** The ICMS calculation is, as a rule, performed on a monthly basis. However, the payment term can vary in accordance with the type of activity performed by the taxpayers and in view of each State legislation.

**IPI:** The IPI calculation for local market transactions shall be performed on a monthly basis. Nevertheless, there are some economic sector that requires a 10 day calculation term, depending on the product’s tariff code, as provided by law.

**PIS and COFINS:** As a rule the calculation period of such contributions is performed every month.

**ISS (Municipal service tax):** A monthly calculation period applies for the ISS.

**10.11. Due Date for payment of VAT**

**ICMS:** ICMS collection term for the ICMS may vary in view of the type of activity performed by the taxpayer and in face of the State’s legislation. Such terms can significantly vary and may correspond to a diverse set of dates.

**IPI:** IPI collection shall be carried out, as a rule, by the last business day of the subsequent fifteen-day period to the month of the taxable event. As an exception, there are products subject to a 10 day calculation term. Theses products’ tax collection shall occur by the third business day of the ten-day period subsequent to the taxable event.

**PIS and COFINS:** Such contributions, as a rule, shall be collected, in case of financial institutions, by the twentieth day of the subsequent month to that of the taxable event and in all other cases, by the twentieth fifth day of the same term.

The payments regarding withheld PIS and COFINS amounts shall be made by the last business day of the week subsequent to the fifteen-day term in which the payment for services has been performed.

**ISS:** The ISS collection terms vary according to the municipalities’ legislation.
10.12. Refunds of VAT

**ICMS**: Taxpayers are allowed to offset tax amounts that were unduly paid or paid in a higher amount, in specific situations, set forth by the law.

**IPI**: In the case of overpayment of the IPI, taxpayers may use the amount to offset tax payments from the same entity, in relation to subsequent periods.

The offsetting of IPI credit balance can also be carried out in relation to other taxes and contributions administrated by the Federal Revenue Services.

**PIS and COFINS**: Amounts regarding overpaid taxes can be offset with other debits related to taxes that are administrated by the Federal Revenue Services.

11. Auditing

11.1. Auditing

Administrative authorities, assessments and general rules related to the fiscal control of taxes are set by a Federal Law (the National Tax Code - “CTN”) which provides the main directions to be follow in relation to taxes in general, or the specific tax discussed therein.

Tax assessments can be executed towards any individual or entity, including those benefited by any form of tax exemption or immunity.

When performing tax assessments, fiscal authorities can request with a written notification, information of the assessed entity in relation to: its business or activities (including in relation to third parties), corporate books, products, files, documents, papers. In addition, no other legislation may limit such rights granted to fiscal authorities.

The obligatory bookkeeping documents and related receipts shall be conserved until their statute of limitation terms.

The administrative authority presiding or conducting diligences regarding tax assessments shall register the documents made necessary in order to begin the evaluation period, as provided by law (which provides a maximum term for the assessment’s conclusion).

Notwithstanding criminal legislation, the disclosure of information by public Finance Authorities regarding the financial condition of the assessed party or related third parties is strictly forbidden. However, exceptions are opened for legal proceeding or administrative purposes.

Federal and State Public Finance Secretariat shall provide each other mutual assistance for the assessment concerning each entity's respective taxes. Moreover, the Federal entity may exchange information with international entities with the purpose of executing due tax collection.

11.2. E-Auditing

In order to increase the capacity of fiscal authorities before the technological resources, among other objectives, the Brazilian government established the Digital Bookkeeping Public System - SPED.

SPED comes from a integrated initiative of the tax administrations of the three governmental spheres (federal, state and municipal), and it is part of the Growth Acceleration Program - PAC, presented by the Federal Government that seeks for the stimulation of the growth of the Brazilian Gross Domestic Product (PIB) by the increase of investments on the economy.

It consists on the improvement of the actual system of accomplishment of the fiscal and accounting accessory obligations generated by the Brazilian taxpayers, based on the alteration of its form of execution, before done in paper, to a digital format, and its remittance to the tax authorities, using the digital certification for the purpose of signature of the electronic documents, guaranteeing its legal validity.

As some of the main objectives of SPED, we highlight:

- Aims the consolidation of the receipt, validation, storage and authentication of corporate commercial and tax records and documents through a web based single information flow;
• Integrated initiative of the tax administrations of the three governmental spheres (federal, state and municipal), together with the private initiative;

• Established in order to increase the auditing capacity of fiscal authorities before the technological resources, among other objectives;

• Consists on the improvement of the past system of accomplishment of the fiscal and accounting accessory obligations generated by the Brazilian taxpayers, based on the alteration of its form of execution, done in paper, to a digital format;

• To expedite the identification of errors and tax offenses through comprehensive analyses and by comparing the tax returns to the information submitted by the taxpayers;

• To mitigate frauds, errors and tax evasion;

• Provides mandatory and periodically remittance of the digital files to the tax authorities;

• Usage of the digital certification for the purpose of signature of the electronic documents, guaranteeing its legal validity.

Although SPED seeks (in the future) the substitution of all current ancillary obligations aiming the accomplishment of them by digital systems based on predetermined layouts, and permitting the crossing of all information, today, regarding its structure, SPED is compound by three big subprojects:

Electronic Invoice (“NF-e”): in the SPED environment, the NF-e consists of the electronically issued and stored document used in the replacement of invoice types 1 and 1-A issued in paper to document transactions subjected to the ICMS and/ or to the IPI.

Since April 2007, the irremissibility of the NF-e is provided by governmental authorities through the establishment of specific legislation based on set list of chronograms in view of the companies’ activities. Currently almost all Brazilian companies are already obliged to the NF-e.

Electronic Bill of Lading (CT-e): CT-e consists of a digital document issued and stored electronically in order to document the provision of transportation services, whose legal validity is guaranteed by the issuer’s digital signature and the authorization of use is provided by the State tax authority of the taxpayer domicile.

The corresponding implementation project is still being developed in an integrated initiative of the federal and States tax authorities and the private sector. Since 2009 pilot companies are already issuing the digital document which will replace all the models of paper documents related to the provision of transportation services, as such as:

• Road
• Water transportation
• Airway Bill
• Railway, and
• Shipment Services Invoice

National Electronic Invoice of Services (NFS-e): the SPED project comprises a national model of NFS-e to be issued, in the future, for all the taxpayers that provides services subjected to the municipal tax on services (ISS), located in all Brazilians municipalities. Such project is being developed in an integrated manner by the federal tax authorities and the Brazilian Association of Municipal Secretaries of Finance (AbrASF).

NFS-e consists in a digital document, generated and stored electronically by the SPED National Electronic Environment, the municipality or other entity convening to document the provision of services subjected to the ISS. The project aims to benefit the municipals tax administrations, through the standardization and improvement of quality of the information provided by theirs taxpayers, streamlining costs and generating greater efficiency and increasing competitiveness of Brazilian companies by reducing ancillary obligations.

Currently, the usage of the national NFS-e is not mandatory and its issuance is being tested by voluntary companies, members of the pilot project.

Parallel to the national project, some municipal tax authorities, as the municipality of São Paulo, have local projects for the usage of digital invoices of services, which are already in force.
Digital Fiscal Bookkeeping for IPI and ICMS purposes (EFD - ICMS / IPI): EFD ICMS/ IPI consists in a digital file generated based on a specific layout set by Law, sent monthly by the taxpayers to the tax authorities through the Internet, which encompasses information of interest to States and Federal tax authorities, as well as the registration of inventory, fiscal documents regarding inflow and outflow transactions and calculations of the ICMS, ICMS/ST and IPI.

Considering lists set by each State internal laws, companies are being obliged to the EFD ICMS/IPI since 2009. The corresponding digital files shall be electronically signed and stored by the statute of limitation period established by Law.

Digital Fiscal Bookkeeping for PIS and COFINS purposes - (EFD PIS /COFINS) : EFD PIS/ COFINS consists in a digital file generated based on a specific layout set by Law, sent monthly to the tax authorities through the Internet used to record information regarding taxes on gross revenue - PIS and COFINS, under the cumulative and non-cumulative methods of calculation;

Encompass the record of the documents relating to transactions performed by the taxpayers on a monthly basis that represent revenues, costs, expenses, liabilities and acquisitions.

The files shall be electronically signed and stored by the statute of limitation period established by Law.

Digital Accounting Bookkeeping (ECD): the Digital Accounting Bookkeeping was created for accounting and social security purposes and consists in the digital version of the company’s Journal and Ledger as well as auxiliary books. The generated files shall be based on a pre-set layout and electronically sent to fiscal authorities.

The content of the ECD files are shared among the users of the SPED - tax authorities and public bodies, on the limits of their competence (kept the companies fiscal and banking seal trade).

The following strategy was adopted by the tax authorities for the implementation of the ECD project:

- 2007 - development and tests - pilot companies and tax authorities;
- 2008 Fiscal year 2007 - pilots and other volunteer companies;
- 2009 Fiscal year 2008 - required by companies taxed by the actual taxable income tax and selected by the Federal Government;
- Since 2010 Fiscal Year 2009 - all other companies taxed by the actual taxable income tax.

Currently, for other types of companies not mentioned above the adoption of the ECD is optional.

12. Penalties and risks for non-compliance

12.1. Penalties
The delay or incompliance with the main tax-related obligations (tax collection) and/or indirect tax ancillary obligations shall result in the application of fines or other legally previously set penalties, e.g. the revoking of special programs summed by the legal additions.

12.2. Interest on late payments
**ICMS:** The fiscal ICMS debit is subject to interest rates which are applicable as of the legally provided dates regarding each situation. The amounts may consist of the following:

- The monthly accumulated Custody and Liquidation Special System Rate (“Sistema Especial de Liquidação e de Custódia -SELIC”)
- In relation to fractions of periods (less than a month), 1%.

We inform that the abovementioned interest on arrears may also vary depending on the state legislation.

**IPI, PIS and COFINS:** In relation to the federal taxes, interest rates are based on the monthly accumulated SELIC rate to be counted from the first day of the subsequent month of the tax collection term until the last day of the month prior to the date of the monthly 1% collection.
ISS: ISS fines and interests will vary according to specific municipal legislation.

12.3. Joint Liability
In accordance to the Tax Code, in cases where tax authorities are unable to demand the compliance of tax obligations from the taxpayers, related parties, listed by the law may be jointly responsible.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The tax authorities may generally audit taxpayers up to five years after the chargeable event.

13.2. Recovery of VAT by the taxable person
With respect to claims for refund, a taxpayer must file for a refund within five years from time the return was filed.

14. Fiscal war and its consequences

In Brazil, although each state has autonomy to establish own rules towards ICMS, including the possibility to enact incentives and benefits, general guidelines are addressed in the Federal Constitution and in certain pieces of national legislation (i.e., supplementary laws, national agreements, etc.). With respect to incentive granting, supplementary law no. 24/75 sets forth the procedures that states should follow whenever interested in creating a new one. In summary, such rules determine that ICMS incentives may only be established by a given state after being approved by all other states under the “CONFAZ” (National Council of Fiscal Policy).

In view of the practical difficulty to obtain unanimity, many States ignore this requirement and issue incentives unilaterally in different ways such as taxable basis reduction, exemption, presumed credits, and deferral/postponement of tax payments, giving raise to the so-called “fiscal war” or “tax war”.

These incentives result in the reduction of effective ICMS payable at origin. However, ICMS nominal rates are still disclosed on the invoices paid by purchaser at the State of destination, regardless of the effective paid tax. The purchaser records the entire credit of ICMS without disregarding the tax benefit at the supplier, and use it to offset tax due to the State of destination.

In order to refrain this practice, complaint States are penalizing taxpayers by means of not allowing the registration of full tax credits, limiting credit appropriation to the amount effectively paid by the seller and writing off the “benefitted” credits, also imposing high penalties. The argument is that, without CONFAZ, the incentive is illegal and unconstitutional (thesis currently accepted by the Brazilian Supreme Court).

If, in one hand, the incentives may be declared unconstitutional, on the other hand, the Brazilian Superior Court of Justice has been deciding in favour of taxpayers, disallowing state authorities to write-off the credits under the argument that the proper way of challenging an unilateral incentive is through the Supreme Court (i.e., two wrongs does not make one right).

One very important aspect still under discussion relates to the effects of the nullification decision, i.e., will the decision have retroactive effects or will it be valid on a prospective basis only? Up to now (March 2013), it is absolutely not possible to predict effects of courts decisions about the tax war to beneficiary companies and states, either for the past, present, or for the future, the analysis of the political effects, from the matter, needs to be performed upon facts and circumstances.

15. New Senate Resolution - Harbor War

The Harbor War is the part of the tax war directly related to unilateral tax benefits focused on imported goods. We stress that tax benefits are commonly the main reason for companies to settle in a certain State, and in this sense, the States grant those in order to attract the investment from these companies.

The State benefits related to the Harbor War are usually granted with an ICMS deferral on the goods’ import, followed by a presumed credit or a tax payment postponement for a long period of time with subsidized interest and a relevant grace period upon the next goods output. In this regard, in case of a cross-state transaction among company “A” (located on a State with a Harbor War benefit) and “B” (a company from another State), company A pays the ICMS due on the goods’ outflow with the benefit of a reduction generated by a presumed credit, but files its tax invoice with an ICMS value equivalent to the full tax amount without considering the referred reduction. Accordingly, the good’s buyer, company B, shall credit from the tax invoice
the full ICMS value, which is higher than the one effectively paid by the seller. In light of this scenario, destination States considered themselves jeopardized, as this situation reduces their own tax collection.

In view of this situation, Brazilian Senate recently approved the Resolution 13/12, which reduced cross-state ICMS rate to 4%, as of January 1st, 2013. This new rate applies in cases of imported goods, or goods subject to some sort of low content local assembly/manufacturing process, keeping imported content under 40%. Certain exceptions apply in case of certain goods without local similar production, or manufactured under specific conditions (the so-called PPB).

In view of new rules, certain taxpayers started/increased to accumulate tax credits in view of the difference between the ICMS paid upon clearance (usually calculated under regular internal 17%-19% rate) and reduced 4% cross-state rates, and are now seeking for alternatives to mitigate this issue by means of restructuring operations or requesting specific rulings to alter taxation.

Other potential consequences may arise to the taxpayers as a result of the Resolution 13/12, especially in term of the need changes in internal controls and Information Technology (IT) internal structures. The analysis of the potential effects derived from the matter needs to be performed upon facts and circumstances.
Brazil
Useful contacts

Luis Reis
ITX Lead Partner
Avenida Francisco Matarazzo 1400
Torre Torino,
05001-903, São Paulo-SP, Brazil
Tel.: +55-11-3674-2276
Email: luis.reis@br.pwc.com

Cassius Carvalho
ITX Partner
Avenida Francisco Matarazzo 1400
Torre Torino,
05001-903, São Paulo-SP, Brazil
Tel.: +55-11-3674-3822
Email: cassius.carvalho@br.pwc.com

Julissa Almeida
ITX Manager
Avenida Francisco Matarazzo 1400
Torre Torino,
05001-903, São Paulo-SP, Brazil
Tel.: +55-11-3674-3764
Email: julissa.almeida@br.pwc.com
1. Scope

The VAT, called the federal Goods and Services Tax (GST) was implemented on January 1, 1991 and is administered by the Canada Revenue Agency (CRA).

The tax is currently calculated at the rate of 5% on sales or rentals of goods or the provision of services (collectively referred to as "supplies") made in Canada. GST also applies to supplies of intangible property (e.g. intellectual property) and real property.

Harmonized Sales Tax (HST) was implemented on April 1, 1997, when three Canadian provinces (Nova Scotia, New Brunswick, and Newfoundland and Labrador) combined their provincial sales tax with the federal GST. HST was further implemented in the provinces of Ontario and British Columbia on July 1, 2010 and in Prince Edward Island on April 1, 2013. Also on April 1, 2013, British Columbia withdrew from the HST system (see additional comments in section 16.2).

The HST follows the same structure as the GST and is administered by CRA. There is no need to register separately for HST, and businesses are able to use GST/HST return forms for remitting both taxes. The HST rates vary by province and are set out in section 6.2.

2. Taxable Persons

2.1. Definition
GST or HST applies to all supplies made in Canada by a supplier in the course of a commercial activity.

2.2. VAT Grouping (VAT consolidation regime)
There are no GST/HST Grouping provisions in Canada.

3. Place of supply

3.1. Goods
A sale of goods is deemed to be made in the place where the property is delivered or made available to the purchaser. Any other supply of goods, such as a lease, is deemed to be made where possession or use of the goods is given to the recipient.

A supply of intangible personal property is deemed to be made in Canada if the property may be used in whole or in part in Canada. There are also special rules that apply where the supply is made in Canada to determine whether the supply is made in a HST province and the supply is subject to HST instead of GST.

3.2. Services
A service is generally deemed to be supplied in Canada if the service is performed in whole or in part in Canada. It is deemed to be supplied outside Canada if it is performed wholly outside Canada.

As with supplies of property, special rules determine if a service is made in a HST province and thereby subject to HST instead of GST.

Special rules apply to the supply of a telecommunications service. Supplies by non-residents who are not registered and do not carry on business in Canada are not subject to tax.

4. Chargeable event, chargeability of tax

4.1. Goods
The recipient of a taxable supply is generally required to pay tax at the time the consideration for the supply is paid to the supplier or the time the consideration becomes due, whichever is earlier. Where a supply involves partial payments, tax must be paid on each payment as it is paid or falls due. For purposes of determining when tax is payable, the legislation deems an amount to become due when it is invoiced.
4.2. Services
The rules noted above for the supply of goods, also apply to the supply of services.

4.3. Imports
Goods imported into Canada for domestic consumption are subject to GST, which is calculated on the value of the goods at the time of importation. GST is collected by the Canada Border Services Agency (CBSA). HST may apply instead of GST where noncommercial goods are imported into a HST province.

Importers of services and intangible personal property are required to self-assess and pay GST (or HST for consumption or usage in a HST province) unless these supplies are imported for use exclusively (90% or more) in a commercial activity.

5. Taxable Amount

5.1 General Rule
GST/HST is calculated on the value of the consideration for a supply. Consideration can be regarded as the price paid or payable for the goods or services. Consideration can include any act of the purchaser from which the supplier derives a benefit or advantage and any promise of the purchaser to perform such an act.

The legislation provides that the value of non-monetary consideration is its fair market value at the time the supply is made.

5.2. Exchange Rate Rules
Foreign currency is to be converted to Canadian currency using:

- the source the taxpayer typically uses for actual conversions;
- a Canadian chartered bank;
- the Bank of Canada; or
- the rate provided by the CBSA for purposes of converting the value for duty of imported goods.

When a source other than the source used for an actual transaction is selected, that source must be used consistently and for a reasonable period of time (such as one year).

5.3. Rounding Rules
There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate
GST applies at the rate of 5% for supplies made in Canada, with the exception of supplies made in a HST province.

6.2. Increased Rate
HST rates for supplies that are made in participating provinces:

- Ontario, Newfoundland and New Brunswick: 13%
- Nova Scotia: 15%
- Prince Edward Island: 14%

6.3. Reduced Rate
Certain supplies are subject to GST/HST at the rate of 0%. (See “zero-rated” supplies below).

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following supplies are exempt of GST/HST:

- Residential real property;
• Health care services;
• Educational services;
• Child and personal care services;
• Legal aid services;
• Supplies by charities;
• Some services provided by public sector bodies;
• Financial services; and
• Ferry, road, and bridge tolls.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
The following supplies are zero-rated for GST/HST purposes:
• Prescription drugs and biologicals;
• Medical and assistive devices;
• Basic groceries;
• Agriculture and fishing;
• Exports;
• Non-taxable portion of tour packages;
• International passenger or freight transportation;
• International organizations and officials;
• Exported financial services; and
• Collection of customs duties.

8. Deductions

8.1. VAT recovery
A registrant who acquires or imports property or a service for consumption, use, or supply in commercial activities of the registrant may claim input tax credits to recover all or part of the tax the registrant paid on the acquisition or importation of the property or service.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-residents who make taxable supplies of goods or services in the course of a business carried on in Canada are required to register and collect and remit GST/HST in the normal manner, unless the supply is an exempt or zero-rated supply.

9.2. Registration for taxable person not established in the country
Voluntary registration may be permitted if the non-resident regularly solicits orders for the supply of tangible personal property for export to, or delivery in, Canada in the ordinary course of carrying on a business outside Canada.

Voluntary registration may also be available to non-residents who have entered into agreement to supply:
• Services to be performed in Canada; or

• Intangible personal property to be used in Canada or that is related to:
  • real property situated in Canada,
  • tangible personal property ordinarily situated in Canada, or
• services to be performed in Canada.

9.3. Application Procedure
Persons required to register or persons who wish to register voluntarily for GST/HST purposes are required to complete a Request for a Business Number and a GST/HST account under that Business Number and file the completed request with the CRA.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
Non-residents who do not maintain a fixed place of business in Canada and who become registered must provide security in a form and amount satisfactory to the Minister of Finance. The amount of security is 50% of the estimated net tax remittable or refundable by the non-resident during the 12-month period after becoming registered, with a maximum of CA$1 million and a minimum of CA$5,000.

9.6. Exemption from the requirement to register
Individuals, personal trusts, and partnerships consisting of individuals are deemed not to carry on a commercial activity unless it is engaged in for profit. Persons who are small suppliers, persons whose only commercial activity is making supplies of real property by way of sale otherwise than in the course of a business, and non-residents who do not carry on a business in Canada are not required to register for GST/HST.

A person qualifies as a small supplier if the person's proceeds from taxable supplies do not exceed CA$30,000 per year.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
A registrant who makes a taxable supply in Canada is required, as agent of the Crown, to collect any tax imposed under the GST/HST legislation.

10.2. Registration
Persons required to register or persons who wish to register voluntarily for GST/ HST purposes are required to complete a Request for a Business Number and file the completed request with the CRA.

10.3. VAT Identification Number
The GST/HST identification number is a suffix of the Business Number. The Business Number is a nine-digit number under which various other federal accounts may be opened. For example, the GST account is identified as RT0001. The complete GST/HST registration number would be 123456789 RT0001.

10.4. Tax authority
The Canada Revenue Agency is the Tax Authority responsible for the administration of GST/HST.

The Canada Revenue Agency is entitled to perform audits to ensure tax compliance, by reviewing the taxpayers accounting records and tax returns. Registrants and taxpayers may dispute an assessment raised as a result of an audit by filing a notice of objection with the Canada Revenue Agency Appeals Branch. The Appeals Branch operates under authority formally delegated by the Minister and performs an administrative review function. Revenue Quebec administers the GST for all registrants that are resident in Quebec along with its Quebec Sales Tax (QST) and performs the above functions on behalf of the Canada Revenue Agency.

10.5. Invoicing

10.5.1. Valid Invoice
A registrant is generally unable to claim an input tax credit until he or she has obtained the relevant contract, invoice, receipt, or other satisfactory supporting document issued or signed by the vendor. The Input Tax
Credit Information Regulations prescribe the specific information required, which includes the valid registration number of the vendor.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
There are no restrictions on the form or physical characteristics of documents used to support input tax credit claims, provided they meet the basic information requirements.

10.5.3. Electronic Invoicing
Electronic invoices are permitted.

10.6. Credit notes and debit notes
Where GST or HST has been charged or paid in respect of a supply and the consideration for the supply is subsequently reduced, the supplier may adjust the amount of tax charged on the transaction. Where the tax has been paid, the supplier may refund the tax to the purchaser to the extent of the adjustment or may credit the purchaser’s account. The adjustment in tax must be made within two years of the time the consideration was reduced.

Where tax is adjusted, the supplier must issue a credit note to the purchaser setting out the amount of the tax change and other information relevant to the adjustment. The Credit Note Information Regulations set out the information that must be contained in credit notes.

10.7. Books and Accounting Registers/Records
Every person who carries on business or engages in a commercial activity in Canada is required to maintain books and records of account for audit purposes.

10.8. retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Generally, records must be retained for six years from the end of the calendar year to which they are related, or for such longer period as may be prescribed by the regulations.

10.8.2. Format of Archiving
Books and records may be maintained in a number of forms, including:

- traditional books of account with supporting documents;
- records maintained in a machine-sensible data medium that can be related back to the supporting source documents and that are supported by a system capable of producing accessible and readable copy;
- microfilm reproductions of records and books of account; and electronic images of records and books of account.

10.8.3. Place of Archiving
The records must generally be kept in French or English at the person’s place of business in Canada. The Minister may permit a registrant to keep his or her records outside Canada in certain cases.

10.9. Supporting documentation
The records must be adequate to determine the amount of the person’s liability under the legislation or the amount of any refund or rebate payable to that person.

10.10. Tax period and VAT returns
A registrant is required to file a return for each reporting period. The reporting period can be a fiscal month, a fiscal quarter, or a fiscal year, depending on the registrant’s threshold amounts.

GST/HST returns for monthly and quarterly filers must be filed within one month following the end of the registrant’s reporting period. Returns for an annual period must be filed within three or six months following the end of the reporting period.

10.11. Due Date for payment of VAT
GST/HST must be paid on the filing due date. Persons filing on an annual basis may also be required to pay quarterly installments.
10.12. Refunds of VAT
A registrant may claim a refund of GST or HST even if the total GST or HST claimed as an input tax credit exceeds the amount of GST or HST collected in respect of taxable supplies in a particular reporting period.

There is no refund mechanism for non-resident businesses that are not GST/HST registered.

10.13. Additional Reporting (statements)
There are no additional reporting requirements except for financial institutions.

11. Auditing

11.1. Auditing
The tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the registrant's accounting records and tax returns.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
Failure to file a GST/HST return or GST/HST returns filed late are subject to a penalty equal to 1% of the amount overdue on the return, plus one quarter of this amount times the number of complete months the return is overdue, to a maximum of 12 months. Other penalties could also apply.

12.2. Interest on late payments
Interest at the prescribed rate starts to accrue on the unpaid interest daily until paid.

The prescribed rate is the sum of the basic rate in respect of the particular quarter and 4%. The basic interest rate is the average equivalent yield, expressed as a percentage per year, of the Government of Canada 90-day Treasury Bills sold at auction during the first month of the preceding quarter.

12.3. Joint Liability
There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
CRA may not commence proceedings to recover taxes from a taxpayer more than four years after the time the return for the reporting period was filed or was required to be filed, whichever is the later. The limitation period may not apply in cases of fraud, neglect, carelessness or wilful default.

13.2. Recovery of VAT by the taxable person
In general, a claim for an input tax credit must be made in a return filed by the taxpayer within four years from the time the return in which the claim could have been made was required to be filed. Special rules apply to "specified person" where the period for claiming an input tax credit is reduced to two years.

A person is a "specified person" if the person is a listed financial institution. In addition, a person is a "specified person" if their threshold amounts exceed CA$6 million in each of their two preceding fiscal years, except if the person's supplies (other than supplies of financial services) in either of the person's two immediately preceding fiscal years are all or substantially all taxable supplies.

14. Rulings and Decisions

14.1. Rulings
Taxpayers may apply for a ruling from the Canada Revenue Agency to ensure the correct tax treatment of any type of supply.

14.2. Decisions
A decision of the Minister of National Revenue may be appealed to the Tax Court of Canada. A notice of appeal must be filed with the Tax Court within 90 days of the Minister's decision. Decisions of the Tax Court may be
appealed to the Federal Court of Appeal. A Federal Court decision may be appealed the Supreme Court of Canada, Canada’s highest court, if the Supreme Court feels the issue has sufficient significance.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The general anti-avoidance rule (GAAR) is intended to prevent persons from benefiting from transactions undertaken primarily for the purpose of avoiding, reducing or deferring the payment of tax, or increasing a refund or rebate or other amount, where no other anti-avoidance provision is applicable. Such a transaction is considered to be “an avoidance transaction” and includes an arrangement or an event. The GAAR applies to all persons, e.g., registrants, persons claiming rebates, etc.

Where an avoidance transaction is undertaken, the Act provides that the tax consequences will be determined as is reasonable in the circumstances in order to deny the tax benefit that, but for the GAAR, would have resulted from that transaction or from a series of transactions which include that transaction.

16. Other Rules

16.1. VAT withholding regimes
There are no specific provisions on this topic.

16.2. Other regimes
On July 1, 1992, the province of Quebec effectively harmonized its retail sales tax base with that of the federal GST. Supplies made in Quebec are subject to QST at the rate of 9.975% on the consideration excluding GST.

The QST is a separate tax regime requiring a separate registration and having a separate reporting process. In addition to the federal GST, the provinces of Saskatchewan (5% rate), Manitoba (7% rate) and British Columbia (7% rate effective April 1, 2013) each impose a provincial sales tax (PST) that applies at a retail level to certain goods and services.
Canada
Useful contact

Mario Seyer
Partner
1250 René-Lévesque Blvd. West, Suite 280
Montréal, Quebec, H3B 2G4, Canada
Tel.: +1 514 205 5285
Email: mario.seyer@ca.pwc.com
Chile

1. Scope

Chilean VAT is an indirect tax that works on a Credit-Debit system which generally taxes the following transactions:

a. Sales of goods.

b. Sales and other agreements transferring the ownership of tangible assets or real estate owned by a construction company provided such operations are customary. The Chilean VAT law presumes that all sales made within an entity’s ordinary course of business are customary.

c. Services contained under Article 20 No.3 and No. 4 of the Chilean Income Tax Law (hereinafter, “ITL”) are subject to VAT provided they are rendered or utilized in Chile (e.g., commercial services, industrial services, financial services, among others).

d. Imports of goods into Chile.

Even though VAT is applicable uniformly in Chilean territory, there are some special tax jurisdictions such as Free Trade Zones (e.g. in Iquique and Punta Arenas). There are also Free Trade Deposits which are a physically delimited space (e.g. in Arica, Talcahuano, Valdivia, Puerto Montt, Castro and Coyhaique). VAT is not applicable in the Eastern Island territory.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals, legal entities or other entities without legal personality that sell goods, provide services, or carried out any other operation subject to VAT.

2.2. VAT Grouping (VAT consolidation regime)

VAT Grouping is not allowed under Chilean domestic tax law.

3. Place of supply

Chilean VAT system does not provide a set of rules taking into account the origin of supply to determine whether a supply is connected to Chilean territory, and therefore subject to VAT. The Chilean VAT Law only establishes a general rule to determine if a sale of goods or the provision of services are subject to VAT or not in Chile.

3.1. Goods

It is levied with VAT the sale of goods if they are physically located in Chile at the moment of the sale, regardless of where the contract is agreed or signed. For this purpose, the goods registered in Chile are considered as located herein, despite the fact that they were temporarily out of the country.

3.2. Services

Services would be levied with VAT when provided or utilized in Chile, regardless of where such services would be paid.

4. Chargeable event, chargeability of tax

4.1. Goods

In case of movable goods, the invoice should be issued when goods are delivered.

4.2. Services

In case of services, the invoice should be issued in the same tax period when the remuneration is paid or put at disposal of the provider.
4.3. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration.

5. Taxable Amount

5.1. General Rule
As general rule, the taxable amount of the good or service would be determined by the value of the operation (price) agreed by the parties upon the transaction. In certain cases, the VAT Law establishes special rules to determine the value to be considered as tax basis.

Adjustments to the value of supply are permitted due to bonuses, discounts and similar commercial reasons, provided certain conditions are met. These adjustments will take effect in the period in which they occur, if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

Goods
The final price of goods should include: adjustments, interest, wrapping and packaging, and the taxes paid (except VAT).

Services
The final price of services should include: adjustments, interest, wrapping and packaging, and the taxes paid (except VAT).

Importation
The taxable amount is the value declared in the customs declaration or the CIF value when the customs’s value is not available.

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into local currency applying the exchange rate published by the Chilean Central Bank.

5.3. Rounding Rules
Are applicable when figures contain cents (it is a fraction of a Chilean peso), in which case cents should be eliminated or rounded up into Chilean pesos considering for this purpose if cents are lower or higher than 50, respectively.

6. Rates

6.1. Standard Rate
The VAT standard rate is 19%.

6.2. Increased Rate
Not Applicable.

6.3. Reduced Rate
Not applicable.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
VAT exempted transactions preclude persons liable for VAT to recover input VAT charged in any purchase related to such transactions. These exemptions depend on the taxpayer status or the activity carried out by them.

Examples of exempted taxpayers are: television networks (except for the amount received in advertising); shipping lines and airlines only in regards to transportation of passengers; educational establishments; hospitals; social security; universities, among others.

A VAT exemption is also available for foreign investors and recipient entities regarding capital assets forming part of a foreign investment project covered under the Foreign Investment.

Examples of exempted transactions are: earnings that do not constitute income under article 17 of the Chilean ITL; income derived from some shows including for example, artistic events and sports; indexed life insurance
premiums; some specific services rendered in connection with exports; international transport of persons and goods; earnings perceived by professionals, self-employed workers and corporation’s directors.

The Chilean VAT Law also establishes a VAT exemption applicable to remunerations which are subject to Additional Tax (withholding tax) under Article 59 of the Chilean ITL. However, a recent tax reform established that this exemption would not apply in case of services that are exempted of Additional Tax, due to a domestic law or due to the application of a Treaty, and that are supplied in Chile.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

Export of goods and services are zero rated. In the case of services, Chilean Customs is in charge of qualifying services as exports, provided some requirements are met.

8. Deductions

8.1. VAT recovery
Input VAT incurred by a person liable to tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met.

Input VAT generated at a pre-operative stage can also be used provided the entity is already registered as a taxpayer.

Where input VAT relates to both taxable and exempted transactions, such input VAT will be recoverable using a pro rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-residents that are not registered in Chile for tax purposes will be charged with VAT for the levied operations they incur into without having the right to utilize such VAT as VAT input. The latter will, therefore, increase the cost of the goods or services provided.

As a general rule, the seller or service provider is the one obliged to withhold and pay the VAT. This general rule is altered when the seller or service provider is not domiciled in Chile, among others. In those cases, our VAT Law provides for a “change of subject” where the responsibility to withhold and pay the tax is transferred to the importer or the beneficiary of the service.

9.2. Registration for taxable person no established in the country
As a general rule, Chilean legislation does not provide for any registration mechanism for non-established businesses for VAT purposes. However, to benefit from the recovery mechanism that operates domestically, a non-established business is able to register as a taxpayer for Chilean tax purposes under general rules, for all tax purposes.

9.3. Application Procedure
Not applicable

9.4. VAT Registration: Simplification
Not applicable

9.5. Alternative procedures for non-established taxable persons
Not applicable

9.6. Exemption from the requirement to register
In case foreign individuals or legal entities, nor domiciled neither resident in Chile investing in the country with the sole purpose of receiving income from certain securities’ transactions (e.g. sale and purchase of shares, bonds, promissory notes, derivatives, among others), through an institution, it will not be required from them to individually register and obtain a Tax Identification Number (RUT). In this case the custodian will be responsible of assigning such Tax Identification Number.

9.7. Joint Liability
Not applicable
10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
In case of sales: the seller is the responsible person, but it will be the buyer’s responsibility when the seller is not resident in Chile.

In case of services: the service provider is the responsible, but it will be the recipient’s responsibility in case the provider is not resident in Chile.

Withholding agents are also obliged to account for withheld taxes in their records, and they must file a tax return and make payments on a monthly basis.

10.2. Registration
There is no specific registration for VAT purposes. There is a single registration process for all tax purposes, under which taxpayers receive a Tax Identification Number (Rol UnicoTributario - RUT). There are no minimum thresholds for tax registration.

10.3. VAT Identification Number
Once registered, the Chilean IRS assigns the Tax Identification Number (RUT) to each taxpayer, which is composed of numbers only. In practice, in case of individuals, the RUT assigned will be the same as the individual’s ID number (RUN), for example, 17.000.000-

1. In case of legal entities, the Chilean IRS assigns higher numbers, and is currently in the range of 90 million plus a “verifying number”, for example, 93.000.000-2.

10.4. Tax authority
The Chilean IRS is the authority in charge of construing and supervising the compliance of Chilean VAT Law. It is also entitled to administratively perform audits to ensure such compliance by reviewing the taxpayers accounting records and tax returns as well. If assessments are carried out as a result of an audit, the Chilean IRS is entitled to charge unpaid taxes and apply the corresponding tax penalties.

Tax payments are collected and administrated by the Chilean National Treasury.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the invoices regulations issued by the Chilean IRS. The regulations set forth the layout, measures, expiration date and other mandatory information that invoices and receipts must comply with for tax purposes. To have legal validity, invoices and bills should be stamped by the Chilean IRS. Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self billing
Invoice forms can be printed out by any printing company or business. However, they shall always follow the invoices regulations. Afterwards, they should get stamped by the Chilean IRS.

10.5.3. Electronic Invoicing
The Chilean IRS authorizes the issuance of electronic invoices. For this purpose, it is necessary to be authorized by the Chilean IRS and to use a certified software. The electronic invoice should include an electronic Chilean IRS stamp and digital signature.

The corresponding regulation also establishes how to stamp, to get the IRS authorization, and to deliver, send, archive and record these documents.

10.6. Credit notes and debit notes
Only VAT sellers and service suppliers are entitled to issue credit or debit notes. These documents should be issued following the same requirements applicable to invoices.

10.7. Books and Accounting Registers/Records
Taxpayers shall hold the following Books:

1. Control Books (Libros de control)
I. Net Income Tax Ledger for First Category Tax and the Fund of Taxable Income
II. (Libro registro de la renta liquida imponible de 1° categoría y fondo de utilidades tributables (FUT)
III. Account books of Z informs (libro de informes Z)

2. General or Main Accountability Books (Libros de Contabilidad General)
   I. Cash Book (libro caja), Accounting Journal (libro diario), and General Ledger
   II. (libro mayor)
   III. Fees book (libro de honorarios)
   IV. Inventory or stock and balances book (libro de inventarios y balances)

3. Accounting Books (Libros auxiliares)
   I. Purchases and sales book (Libro de Compras y Ventas)
   II. Remunerations or payroll book (libro de remuneraciones)
   III. Stamp Tax Book (libro auxiliar de registro y control de impuestos de timbre y estampillas)
   IV. Electronic purchases and sales book (Libro de compras y ventas electrónico)
   V. Withholding book (libro de retenciones)
   VI. Registry of provisioned credits or bad debts for tax purposes (Registro de Créditos Provisionados o Castigados para Fines Tributarios)

Accounting books must be kept in the place of business. Violation of this requirement is cause of a fine.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
All the registers, records, ledgers and invoices should be kept in the business place for a period of six years.

10.8.2. Format of Archiving
A minimum amount of information has to be registered, according to accounting rules that make sure the records truthfully reflect the results of the business, and that they are accessible to the authorities.

10.8.3. Place of Archiving
All the registers, records, ledgers and invoices should be kept in the business place.

10.9. Supporting documentation
Persons liable to VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions, especially in case such information is required by the Tax Authorities during tax audits.

10.10. Tax period and VAT returns
The VAT return should be filed monthly, which means that a taxpayer must file 12 VAT returns per year. As a general rule, VAT returns must be filed within the first 12 calendar days of the immediately following month. For example, the February VAT tax return must be filed no later than March 12.

10.11. Due date for payment of VAT
VAT should be paid at the same time as the monthly VAT return is filed.

10.12. Refunds of VAT
When the input credits exceed the output debits, the excess can be carried forward to the following periods as part of those periods' credits until exhausted. The excess is not refunded to the business.

There are some special regimes applicable to exporters and purchases of goods destined to be treated as fixed assets by companies where refunds are permitted.

10.13. Additional Reporting (statements) Taxpayers, with an annual VAT input of CLP $ 250,000,000 or more, are obliged to file on a semester basis, two sworn statements summarizing the information provided in the monthly returns, among others.
11. Auditing

11.1. Auditing
Tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable person’s accounting records and tax returns. If an assessment is performed as a consequence of an audit, tax authorities are entitled to challenge unpaid taxes and apply the corresponding tax penalties.

11.2. E-Auditing
For the moment, there are no special mechanisms for e-auditing, although electronic means facilitate the assessment and control of the tax authorities.

Notwithstanding the latter, new e-auditing plans to be implemented during calendar year 2012 have been announced by the Chilean IRS. It mainly consists in the same system used for income tax purposes, where audits and assessments will be easier to perform considering that all the information gathered from VAT returns, sworn statements, change of subject information and electronic invoicing, will be centralized in a unique system that will allow to cross such information, in order to detect irregularities in VAT returns and payments.

12. Penalties and risks for non-compliance

12.1. Penalties
Penalties might be imposed in case of tax infractions, and they vary depending on its gravity, such as, fines, the temporary closing of the business, goods seizure and jail.

12.2. Interest on late payments
As a general rule, interest for tax payment delay is 1.5% for each month (or fraction) of delay on the total or part of taxes due. Delays on fine payments will also accrue interest, which may vary case by case.

12.3. Joint Liability
Not applicable

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
Three years counted from the date the payment should have been made. This thee-year period could increase up to six years in case of taxes subject to the taxpayer’s declaration, when such declaration was not presented or it was untruthful. The abovementioned statues of limitations would be increased in three months from the moment the taxpayer has been notified.

13.2. Recovery of VAT by the taxable person
As already mentioned, there are only very limited opportunities to claim the VAT refund. As for the period the taxpayer can claim the recovery of a VAT wrongfully paid or paid in excess, there is a 3 years period to claim it back.

14. Rulings and Decisions

The Chilean tax authority is entitled to apply and supervise the application of tax law. For this purpose, it is entitled to make pronouncements related to tax issues which will have general and/or particular applicability. These are administrative rulings are: (i) Rulings or opinions: through which the Chilean IRS answers to taxpayers questions, which are only mandatory for the individual that requested the opinion, but all together set a interpretation frame; (ii) Resolutions: which aim to implement tax law; and, (iii) Circular letters: which are general pronouncements applicable to all taxpayers.

Decision
Currently, in first instance, tax trials are followed under the tax authorities’ jurisdiction or specialized tax courts. In 2013, specialized tax courts will finalize to be implemented throughout the whole country. Appeals are handled by the correspondent Court of Appeal and by the Supreme Court in a final instance.
15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
Chilean Tax Code contains a catalog of infraction and felonies that are punished by tax law. In case of fraud, the law contemplates jail penalties.

16. Other Rules

16.1. VAT withholding regimes
The VAT Law also establishes VAT special regimes for the following circumstances:

Special regimes for exporters

Our VAT Law and Decree Supreme No. 348 provides for a special Exporter’s Regime with the aim to ensure the neutrality of VAT, according to the Destination Principle.

The latter consist that exporters will have the right to utilize the credit-debit mechanism or to recover the VAT credit incurred when acquiring goods or utilizing services destined to its export activity.

Also, exporters who have an investment project approved by the Ministry of Economy may claim VAT credits in advance before the exports are completed or the VAT has been incurred (e.g., the claim may be based on estimated future VAT credits derived the export operations). Such amounts of VAT claimed in advanced must be paid back to the tax authorities if the exporter does not carry the exports as planned in the approved investment project.

Note that in November 2011 Law N° 20,549 was passed, incorporating as “exporter” under article 36 of VAT Law, Chilean Shipping businesses which exploit mayor ships, with capacity to allow on board pern Vickation and that transport passengers to touristic places, only regarding foreign non-resident (e.g. Cruise Ships).

The latter, only regarding services supplied to foreign tourists nor domiciled neither resident in Chile. These taxpayers will benefit from such law, mainly because those services will be exempted of VAT and they will be able to recover the input VAT incurred in the acquisition of goods and services related to such services, through the credit debit mechanism or by requesting its refund.

Special regime for VAT input related to the acquisition of fixed assets Taxpayers who have VAT credit remainder accumulated in acquisitions of fixed assets, for six or more consecutives periods (monthly periods) can benefit from a special regime.

The VAT remainder could be obtained as a cash refund, or offset against other taxes. This anticipation of funds is later paid by the taxpayer through future VAT debits, plus the “reinstatement”, adjusted by inflation. Taxpayers who finally do not carry out taxable activities are required to pay back the amounts received from the tax authorities.

Note that this is not properly the refund of a credit, but a financial arrangement that anticipates funds to benefit the taxpayer’s cash flow. In case of VAT credit originated in other acquisition or services (different from fixed assets), the VAT credit to be anticipated must be proportioned.

Glossary

Sale: Sales and other agreements transferring the ownership, regardless of the title given by the parties involved, of tangible assets or real estate owned by a construction company provided such operations are customary, or any other convention that leads to this objective or that it is considered as sale by the law.

Service: contribution that one persons performs in favor of the other and for which receives a remuneration, and provided this are services levied by Article 20 N°3 and N°4 of the Chilean ITL.
Chile
Useful contacts

Sandra Benedetto B.
Partner
Torre de la Costanera
Avenida Andrés Bello Nº 2711
Pisos 3, 4 y 5
Las Condes
Santiago 8320000, Chile
Tel.: +56 2 9400155
Email: sandra.benedetto@cl.pwc.com
1. Scope

The Value Added Tax, known as Sales Tax (“Impuesto a las Ventas”), is levied on supply of tangible goods, the supply of services and on importation of goods into Colombia. The principle is that all such events trigger VAT except where an exemption is available. This is a national tax, which is structured as a value added tax in Colombia;

The VAT is not applicable on the Islands of San Andres and Providencia as well as the region of Amazonas. There exist specific rules to determine exempt status of these territories.

The following transactions are subject to Value Added Tax (VAT):

- The supply of movable property;
- The supply of services;
- The importation of goods; and
- The sale or operation of gambling and lottery.

The export of goods and services are included in the definition of taxable supplies.

For the purpose of VAT, supply is defined as any transfer of property or material movable assets with or without consideration, the self-consumption of material movable assets, and the capitalization as fixed assets of material movable assets.

2. Taxable Persons

2.1. Definition

The persons liable to collect and file VAT returns are those who carry out any taxable transactions, such as:

- In supplies of goods, the suppliers (i.e., distributors, manufacturers, etc.)
- Whomever supplies a service
- Importers

Persons which could be liable for VAT include any individual or legal persons, communities, societies, consortiums and any other legal, economic, public or private entity that habitually or occasionally, manufacture, produce, assemble, or supply services. In general, legal entities conducting taxable activities would be liable to account for VAT, while individuals would be liable only if their taxable supplies exceed certain thresholds provided by law, among other requirements.

2.2. VAT Grouping

There are no VAT Grouping provisions in Colombia.

3. Place of supply

3.1. Goods

In the case of supplies of goods, the place of supply is where transfer takes place. In the case of import of goods, though the transfer would be normally deemed to take place abroad, the VAT taxable event would be the importation of such goods. Specific tax-deferral or exempting rules apply to import of equipment for several industries.

3.2. Services

The supply of services is taxable within the country where the supplier is established for business purposes, except under the following circumstances:
Services related to real estate are taxable where the real estate is located.

The following services are taxable in the country where they are performed or carried out:

- Cultural and performing arts and the organization of such events; and
- Loading/unloading, relocation and warehousing.

The following services are taxable in Colombia when the service is supplied by a supplier established outside Colombia for the benefit of a party located in Colombia (this list is not exhaustive):

a. Licenses for the use of, or of the right to use intangibles (including Intellectual and industrial property);
b. Consulting, advising (includes Technical Assistance), auditing, renting of movable tangible property (except ships and aircraft operated in international traffic);
c. Translation services, insurance and reinsurance; and
d. Services of satellite connection or access to and satellite television.

In the abovementioned cases, the tax law provides that the taxable persons receiving the service must account for VAT under a reverse charge mechanism.

4. Chargeable event, chargeability of tax

4.1. Goods
The tax point for a supply of goods is the date when an invoice or equivalent document is issued, or the date the goods are delivered, whichever is earlier.

4.2. Services
The tax point for a supply of services is the date when the service provider issues an invoice or equivalent documents or when the service is completed, paid whichever is earlier.

4.3. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of importation of services, the chargeable event occurs when the service provider issues an invoice or equivalent documents or when the service is completed, paid whichever comes first.

5. Taxable Amounts

In the case of supplies of goods and services, the taxable amount generally comprises the total value of the transaction. The taxable amount includes also additional items which are incidental to or related to the supplied goods or services. It may also include items which individually are not taxed (i.e., cargo transportation). Additionally, there are special rules to determine the taxable amount for certain goods and services.

5.1. Goods
The taxable amount is the total value of a transaction, paid in cash or credit, including usual, unanticipated or mandatory direct cost of financing, accessories, handling, installation, insurance, commissions, warranties, and ancillary expenses, even when separately invoiced or contracted and even when deemed exempt when sold independently. Supplies without consideration, to the extent that are not exempted, are also subject to VAT.

Any adjustment to the value of the transaction is part of the taxable amount. Price increases such as commissions, packing, cargo transportation or installation are also part of the taxable amount. The supplier must invoice these additional features separately to comply with invoicing regulations (a debit note would not suffice). Price reductions such as discounts (except for non-conditional discounts) after sale would not reduce the taxable amount.

When the supplier provides financing to customers on the payment of the VAT incurred in the transactions, the portion of interest is not subject to VAT (unlike any other financing).
5.2. Services
The rules applicable to the sales of goods to determine the taxable amount are also applicable to the provision of services. However, where services are provided for no consideration no VAT applies.

For both goods and services, in no case the taxable amount may be lower than the fair market value on the date of supply.

5.3. Importation
The taxable amount is the value used in the customs declaration in addition to duties, charges, compensation rights, interests and other expenses accrued upon importation.

Where the value of the goods includes “services” or the “value of intangible goods”, the taxable amount will be determined according to the Custom Valuation Agreement of the WTO.

On the importation of finished goods manufactured abroad or in a Free Trade Zone using national components that have been exported, the tax basis will be the value used in the customs return, added by the production cost without discounting the value of the national components exported.

5.4. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published by the Central Bank corresponding to the date on which the supply takes place.

5.5. Rounding Rules
All figures included in the VAT returns must be rounded up or down to the nearest multiple. As an example, if total output VAT to be reported is COP $6,716,420 the figure to be included in the return would be COP $6,716,000.

6. Rates

6.1. Standard Rate
The VAT standard rate is 16%.

6.2 Reduced Rate
A lower rate of 5% is applied on some goods classified regarding the NANDINA Code and for specific services provided by the Tax Law.

The list includes, among others:

• Toasted and decaf coffee.
• Oat.
• Rice and corn for industrial purposes.
• Wheat, except for sowing.
• Unrefined soybean, palm, sunflower, cotton, palm nut, corn and canola oil.
• Table chocolate.
• Wheat flour.
• Cereal flour.
• Machines for poultry farming.
• Electric cars destined for public service.
• Chassis destined for electric cars.
• Car bodies destined for electric cars.
• Storage of agricultural products in general bonded warehouses.
• Agricultural insurances.
• Prepaid medicine plans.
Security, concierge, cleaning and temporary employment services, as long as they are provided by non-profit entities (certain requirements apply).

When the input VAT is greater than output VAT (due to sales of goods and services being taxed with VAT at 5% while purchases from vendors being taxed at generally 16%) a full credit will be allowed as well as refund may be available, provided some requirements are met.

The refund/offset can be requested once the income tax return of the corresponding year is duly filed. In this case the term to request the offset is one month from the filing due date of the income tax return of the fiscal year in which the balance in favor arise.

6.3. 0% Rate

Some goods and services are levied with a 0% rate (see sections 7.2 and 7.3).

7. Exemptions

7.1. Exemption with no right to deduct input VAT (Untaxed supplies)

The VAT law specifically excludes from the scope of the tax a long list of products that are classified under the NANDINA Code (Andean Community Nomenclature). These products are not subject to VAT in Colombia.

The list includes, among others:

- Livestock and farm animals;
- Tuna;
- Honey, coffee and cocoa beans (not roasted);
- Agricultural products (legumes, roots, vegetables, rice and corn);
- Agricultural machinery included within customs classification 84.33 and 84.36;
- Equipment for converting vehicles to dual fuel system (gas and petrol);
- Electric power;
- Natural gas;
- Medicines including oral contraceptive and contact lenses;
- Tablets not exceeding COP$ 1,154,163 (USD 641 for year 2013);
- Personal computers not exceeding COP $2,200,000 (USD 1,220 for year 2013);
- The gas and ACPM;
- Crude oil for refining and;
- Tools, machinery and technology used to preserve and protect the environment.

The following supplies are also not subject to VAT:

- Life, catastrophic diseases, and education insurance;
- Temporary importation of goods;
- Goods imported by diplomatic mission - subject to reciprocity;
- Importation of military arms and ammunition destined for National Defense;
- Temporary importation machinery for basic industries - when not manufactured in the country;
- Importation of machinery for waste procession - when not manufactured in the country;
- Public and private, national and international freight transportation;
- Public transportation of passengers in the national territory by water or land;
• National air transportation of passengers to national destinations, where there is no organized land transportation;
• Transportation of gas and hydrocarbons;
• Interest and other financial income from credit transactions and financial leasing;
• Medical, dental, hospital, clinical and lab services for human health; and
• Public utilities including energy, water, sewage, street cleaning, garbage collection and gas distribution.
• Restaurant and cafeteria services (this services are subject to an excise tax)

7.2. Exemptions with right to deduct input VAT and refund on a bimonthly basis (Zero-rated supplies)
The following supplies are zero-rated with full credit for eligible input VAT, as well as refund/offset being Available on a bimonthly basis.
• Exported goods;
• Goods and services supplied to International Trading Companies (provided they are efectivly exported)
• Specific supplies to industrial users of the free trade zones;
• Exported services (under specific requirements).
• Internet services for low to mid-income residential customers.
• Producers of exempt goods that once the electronic billing system enter into operation according to the procedures adopted by the Tax Authority, adopt and use it among its entire chain of customers and suppliers.
• Tourism packages sold to foreign individuals or entities to be used within Colombia by some specific travel agencies or hotels.

7.3 Exemptions with right to deduct input VAT and refund every semester (Zero-rated supplies)
The followings is a list of some of the goods clas
sified as zero-rated (according to the NANDINA code), which allows the taxpayer to ask for a refund of the input VAT twice a year.

The first one, which corresponds to the first three bimonthly periods, can be requested as from July, following the filing of the respective VAT returns and income tax return of the previous taxable year.

The second one can be requested once the income tax of the corresponding taxable year and bimonthly VAT returns (corresponding to those filed during the second semester) which refund will be requested are dully filed.

List includes, among others, the following:
• Fuel alcohol;
• Vegetal bio-fuel;
• Fresh eggs, meat, milk, fish.

8. Deductions

8.1. VAT recovery
Input VAT incurred by taxable persons can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and when additional requirements are met. Input VAT generated at a start-up phase may also be recovered.

Input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes. Where input VAT relates to transactions within the scope of VAT and exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

As a general rule, the input VAT can be claimed as a credit in the VAT return of the tax period where the cost or expense was actually accrued; however, there is a special regulation for the taxpayers who are compelled to file VAT returns on a bimonthly basis, which implies that the input VAT may be claimed as a credit in the VAT
return of the bi-monthly period where the cost or expense was accrued or within the following two tax periods (see section 10.5).

Such input VAT must be recorded in the accounting records of the tax period in which the input VAT was claimed.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses performing a permanent business activity in Colombia are required to register a permanent establishment as well as for VAT purposes (to the extent performing taxable activities).

9.2. Registration for taxable person not established in the country
Colombian legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is liable to charge and account for the VAT on transactions, except on importation of services or intangible goods in which cases VAT is self-assessed (reverse charged) by the local purchaser who, in this instance, becomes the person liable for VAT (whether VAT registered or not).

10.2. Registration
Resident businesses should obtain a tax identification number which is used for all tax purposes (including VAT). This tax number consists of ten numbers.

10.3. VAT Identification Number
The registry will assign a Taxpayer Identification Number (“Número de Identificación Tributaria” - NIT)

The Tax Identification Number format in the case of legal entities is 999.999.999-9. The last digit number is a verification number that is the result of an algorithm calculated on the nine previous numbers.

10.4. Tax authority
The Directorate of National Taxes and Customs (Dirección de Impuestos y Aduanas Nacionales - DIAN) is the government entity responsible for the administration and enforcement of all national taxes including Value Added Tax.

DIAN is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are raised as a consequence of an audit, DIAN is entitled to challenge unpaid taxes and apply the corresponding tax penalties and interests.

10.5. VAT Compliance
Filing frequency depends on tax payer’s annual revenue on 31 December of the previous taxable year. For businesses with annual revenue in excess of USD1.3M or VAT tax payers that are subject to zero rate, the frequency is bimonthly. If annual revenue is lower USD1.3M but higher than USD228k, the filing frequency is quarterly, and for small businesses (annual revenue below USD228k) the frequency is yearly.
For yearly filers, VAT estimated payment must be made quarterly, based on VAT paid through the end of December of last year, splitting the payment as follows:

Two payments equal to 30% of the VAT paid through December 31st of previous year in May and September. The balance equivalent to VAT payable for the year on the filing due date.

No VAT filings are required for periods where no inputs or outputs exist.

10.6. VAT credit
VAT paid to vendors (other than VAT paid on fixed assets) is creditable even if paid at rates higher than those at which taxable sales are made. Where a receivable arises out that credit, a refund will be available upon request subject to certain circumstances.

10.7. Invoicing

10.7.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the Invoicing Regulations.

The regulations provide the criteria that the format, measures, expiration date and other mandatory information that invoices and receipts must meet for tax purposes.

Invoices (or similar documents) issued by non-residents are not required to fulfill such requirements for VAT purposes. For established business invoices must comply with the following requirements:

a. The invoice must be expressly denominated as a “Sale Invoice” (in Spanish “Factura de Venta”);

b. Name and taxpayer identification number of the supplier;

c. Name and Taxpayer identification number of the purchaser of goods or services, and the detailed VAT applicable to the underlying transactions;

d. Sequential number. If the business is conducted in more than one commercial establishment, each of them should have its consecutive numbering;

e. The number of the Resolution issued by the National Tax Office whereby it authorizes the sequential invoice numbers;

f. Date of issuance;

g. A general description of the related goods or services;

h. The value of the transaction;

i. The name and Taxpayer ID number of the printing company who imprinted the invoices (in the case of lithographic or typographic pre-printed invoices); and

j. The indication of the qualification of the supplier as a VAT withholding agent, when applicable.

The requirements referred to in sections a., b., d. and i. above must be previously printed either lithographically or typographically. It is also possible to issue electronic invoices by complying with certain technical requirements that include the previous approval by the National Tax Office of the related software.

10.7.2. Issuance of Valid Invoice - Outsourcing and self-billing
Outsourcing of VAT billing is permitted; self-billing is not common in Colombia.

10.7.3. Electronic Invoicing
An electronic invoicing regulation was initially introduced in 1996 but due to the fact that mechanism was inadequately implemented, a new regulation was issued in 2005.
These second-generation rules for electronic invoicing are still in force and applied to entities that adopted electronic invoicing procedures as of November, 2008.

The electronic invoice is by legal definition the document supporting transactions that for tax purposes ought to be issued, delivered, accepted and stored by electronic media.

The electronic procedures adopted from issuance to storage of invoices, must assure the authenticity and integrity of the invoice information.

Companies must comply with regulations for handling electronic information and also must be certified under ISO 9001:2000 to be allowed to use electronic invoices.

**10.8. Credit notes and debit notes**

These documents should be issued following certain specific requirements.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.

**10.9. Books and Accounting Registers/Records**

Legal accounting books are the Daily Ledger and the Balance Ledger. On the legal books, a control of VAT should be kept under the VAT payable accounts. There are no specific accounting books that must be recorded for VAT purposes besides those just mentioned.

**10.10. Retention of and access to: books, registers, records and invoices**

**10.10.1. Retention Period**

Accounting books and supporting documents must be physically stored for tax purposes for the same term provided by the statute of limitations for Income Tax returns, which is generally two years from the end of the tax period to which they relate. However, pursuant to commerce legislation, accounting books should be stored for at least ten years from the end of the corresponding period.

**10.10.2. Format of Archiving**

As stated above, VAT supporting documents must be stored by using any acceptable media or supporting device (i.e. hard or soft copy), for the period provided for the statute of limitations of the returns supported with such documents. Once the statute of limitations has expired, supporting documents should be stored on electronic media.

In regards to accounting books, they must be materially stored for ten years, after which they may be destroyed only if it is possible to obtain a reproduction if required. Therefore after the ten-year term has expired, books could be stored on electronic means.

**10.10.3. Place of Archiving**

Accounting books and supporting documents should be stored at the entity’s domicile.

**10.11. Supporting documentation**

Persons liable for VAT are required to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities may issue assessments during tax audits. The documents that should be stored are accounting ledgers invoices, import documents and any other documents provided by law.

**10.12. Due Date for payment of VAT**

The VAT payment is due on the return filing due date.

**10.13. Refunds of VAT**

When the input credits exceed the output credits, the excess can be carried over to following periods as part of those periods’ credits until exhausted via sales. The excess is not refunded to the business, except for VAT credits related to zero-rate sales and services and VAT credits related to 5% sales and services.

Taxable persons subject to VAT withholding are also eligible for a refund of any receivables pertaining to VAT withheld by customers only.

There are special regimes for exporters and non-taxable entities to enable VAT refunds (see sections 7.2 and 7.3).
These refunds may be claimed in the two years following the due date of the VAT returns. Refund requests filed with bank or insurance-guarantee deposit are generally approved within the following 20 business days after filing, while refund requests related to zero-rate sales and services and VAT credits related to 5% sales and services file without said guarantees are generally approved within the following 30 business days. Exceptionally a 50 working days term applies to refund VAT overpayments.

There is no refund mechanism for non-resident businesses.

For tax purposes, legal entities must report to the tax authorities by electronic media the amount of output VAT and input VAT on a yearly basis. The information to be reported comprises the input and output VAT amounts, identifying the supplier and customer respectively by name and tax identification number. The information is used to conduct cross examinations and to assess the reliability of the information supporting the taxpayer’s figures.

11. Auditing

11.1. Auditing
Tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxpayer's accounting records and tax returns. If an assessment is issued as a consequence of an audit, tax authorities are entitled to challenge unpaid taxes and apply the corresponding tax penalties.

11.2. E-Auditing
Please refer to the Additional Reporting (statements) section above.

12. Penalties and risks for non-compliance

12.1. Penalties
Interest on late payments is accrued at the maximum legal interest rate set by the Colombian Finance Superintendent.

If the VAT returns are filed after the due date, a delay penalty of 5% of the tax due is assessed for each month of delay. If there is no balance to be paid, the penalty for each month of delay would be 0.5% of the tax period gross revenue, without exceeding 5% of such gross revenue for the period or twice the value of the credit balance (if any), whichever is lower.

The amendment penalty (for voluntary disclosure) is 10% of the difference between the initial debit or credit balance reported in the VAT returns and the debit or credit balance reported in the amended return for the period. Interest will be assessed for each day of delay. The applicable interest rate is the maximum legal rate set by the Colombian Finance Superintendent for the corresponding quarter. The amendment penalty may increase to 20% or even 160% if requested by the tax authorities.

12.2. Joint Liability
There are no specific provisions on this topic. The only responsible person for paying VAT due, penalties and interest is the legal entity in charge of collecting VAT.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The general statute of limitations for the failure to file VAT returns is five years following the filing due date.

If the return was filed, tax auditors have two years following the filing due date. For returns on which a refund has been claimed, the two-year audit term starts after the request for refund is filed.

13.2. Recovery of VAT by the taxable person
As a general rule, refund applications (only applicable to exporters and zero-rate taxpayers) must be filed before the Tax Authority within the following two years after the VAT return filing date as described in the VAT return section. Taxpayers eligible for withholding VAT on sales of goods and services are also eligible for refunds.
14. Rulings and Decisions

Rulings and Decisions are issued by the Tax Authorities and by the Tax Courts, respectively. They only provide criteria to resolve matters of interpretation on a general basis. Rulings issued by the Tax Authority are binding for Tax Officials but not to taxpayers.

Upon controversies between taxpayers and the Tax Authority, the final decision is in the hands of the State Council ("Consejo de Estado"), which is the highest tax court. If the amount in dispute does not exceed 100 minimum-monthly wages, (COP $ 58,950,000 [roughly USD 32,750]) the final decision would be issued by the lower tax court of the local jurisdiction.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The Tax code establishes some anti-abuse provisions (General Anti-Avoidance Rule), which allows the Tax Authorities to disregard the transactions that in their opinion do not have a valid commercial or business purpose and which tends to modify, reduce, eliminate or deferred the tax consequences.

The Tax Authority may apply the anti-abuse provisions when the following requirements are met:

1. The transactions was made between related parties;
2. The transactions involve tax havens;
3. The transactions involve a special tax regime tax payer;
4. When the amount paid differs by more than 25% of the agreed price in similar transactions.

The Tax Authorities have the capacity to re-characterize the nature of the transaction and therefore its tax consequences.

16. Other Rules

16.1. VAT withholding regimes
As an additional measure, the tax law provides that certain taxable persons must account and withhold VAT on purchase transactions with suppliers subject to the VAT simplified regime, or in case of major taxpayers purchase transactions with suppliers (legal persons) subject to the VAT common regime or in a transaction where the taxpayer purchases from an International Trade Company. The withholding rate is now 15% of the input VAT due on the purchase invoices.

Taxpayers, who are in this case withholding agents, are obliged to account for withheld taxes in their records, file a return and make VAT payments on a monthly basis.

Overpayments of withholding tax may be carried forward to future withholding returns.

16.2. Other regimes
There is a simplified scheme available only to individuals who are retailers, traders, artisans, agricultural and livestock businesses who meet the following criteria:

- Carry out taxable transactions.
- Annual turnover does not exceed UVT 4,000. Colombian tax unit or UVT (Spanish acronym for Unidad de Valor Tributario) is an index created for tax purposes. The current UVT value is COP 26,841 (roughly USD 15).
- Are not registered importers.
- Have not signed contracts for supply of goods or services for more than UVT 3,300 in the current and previous tax periods.
- Have not received or made bank deposits, transferences, or financial investments higher than COP UVT 4,500 (total) (roughly USD 67,000) during the current and previous tax year.
16.2 Contributions in kind, mergers and de-mergers.
According to the tax code, contributions in kind, mergers and de-mergers are not subject to VAT, provided they satisfy substantive requirements.

16.3. Excise tax
As of January 1st, 2013, there is a new national tax that levies the consumption of select services and goods:

- Mobile phone services at 4%
- Certain vehicles, aircraft and other goods at 8% or at 16%
- Restaurant and cafeteria services at 8%
Colombia
Useful contacts

Carlos Miguel Chaparro Plazas
Partner
Calle 100 # 11A - 35, Piso 3 5th. Floor
Bogotá, Cundinamarca
Colombia
Tel.: +(57 1) 634 05 55 Ext. 216
Mobile: +(57 3) 15 851 4081
Email: carlos.chaparro@co.pwc.com

Andrés Millán Pineda
Manager
Calle 100 # 11A - 35, Piso 3 5th. Floor
Bogotá, Cundinamarca
Colombia
Tel.: +(57 1) 634 05 55 Ext. 237
Mobile: +(57 3) 16 622 75 69
Email: andres.millan@co.pwc.com

Federico Abella Rodríguez
Consultant
Calle 100 # 11A - 35, Piso 3 5th. Floor
Bogotá, Cundinamarca
Colombia
Tel.: +(57 1) 634 05 55 Ext. 487-488
Email: federico.abella@co.pwc.com
1. Scope

A General Sales Tax (GST) is levied on the value added on the supplies of goods in general, except for those specifically exempted by law.

The definition of goods does not include the securities represented by shares, bonds, policies, deeds, stamps, postage stamps, bank bills, landed assets by nature, nor living animals.

In general, the supplies of services are not subject to GST, except those specifically mentioned in the law, which include:

- Restaurants, Bars, Nightclubs, social clubs, entertainment clubs and the like;
- Hotels, motels, hostels, and places of transitory stay;
- Repair and painting of all sorts of vehicles;
- Repair and refurbishment of all sorts of merchandise;
- Parking lots;
- Telephone, cable, telex, beeper, messaging services and the like;
- Development and copy of photographs, including photocopies;
- Storage and other non-financial services offered by general deposit warehouses, customs warehouses and temporary storage of goods;
- Laundry and ironing services;
- Public spectacles in general;
- Radio, press and television press services;
- Transmission of television programs via satellite, cable or other similar systems;
- Recording and rental of “videos” and “tracks”;
- Customs agency services;
- Real Estate brokerage services;
- International moving services;
- Insurance premiums;
- Printing press and lithography services; and
- Wash, wax and other vehicle cleaning and maintenance services.

For the purposes of the GST Law, supply is understood to be:

- The transfer of domain of goods;
- The import or introduction of goods into national territory;
- The sale in consignment, the layaway of goods, as well leasing with a purchase agreement;
- The withdrawal of goods for the taxpayer's personal use or consumption;
- The supply of the services referred to in the previous list; and
- Any act that involves or ultimately intends the transfer of property of goods, independently of its legal nature and designation, or the conditions agreed between the parties.
2. Taxable Persons

2.1. Definition
The taxpayers are the individuals or corporate entities, whether in fact or duly incorporated, public or private, that habitually carry out supplies of taxable goods or services. In addition, persons of any nature that import or bring into the country goods are subject to GST.

In addition, individuals or corporate entities, whether in fact or duly incorporated, public or private, that carry out export sales are obligated to file returns. All exporters, whether general sales taxpayers or not, are obliged to file GST returns.

2.2. VAT Grouping (VAT consolidation regime)
There are no VAT grouping provisions in Costa Rica.

3. Place of supply

3.1. Goods
Costa Rican GST is applied on a territoriality basis. Therefore, the supply of goods located, or finally imported into Costa Rican territory, are subject to Costa Rican Sales Tax.

3.2. Services
Services are generally not subject to GST in Costa Rica. However, when services are subject to GST, the Costa Rican territoriality principle will apply. Therefore, tax will only be applied on taxed services supplied in Costa Rica.

4. Chargeable event, chargeability of tax

4.1. Goods
In the supplies of goods, the chargeable event is the moment of the invoicing or delivery of the goods, whichever occurs first.

In the importation of goods by the taxpayer, the taxable event is the acceptance of the customs form or policy.

In the case of the use or consumption of goods by the taxpayer, the taxable event is the date in which they are withdrawn from the inventory.

In the case of the layaway or consignment of goods, the tax will be triggered at the moment when the merchandise is put on layaway or consignment, as may correspond.

4.2. Services
In the supplies of services, the taxable event will be the moment of the invoicing or the supplying of the service, whichever occurs first.

4.3. Imports
In the case of the import of goods, the taxable event is the moment of acceptance of the corresponding customs declaration or form.

5. Taxable Amount

5.1. General Rule
The tax on the supply of goods is levied on the net sale price. The following are excluded from the taxable amount:

- Discounts generally accepted in commercial practice, as long as they are generally and usually applied and they are detailed separately from the sales price in the corresponding invoice.

- The value of the services supplied by virtue of the supply of taxable goods, as long as they are supplied by third parties and they are invoiced and accounted separately.

- Financial expenses invoiced and accounted separately.
In the supply of services, the tax is levied on the sales price, after deducting the items mentioned in the supply of goods, as applicable.

In the import of merchandise, the taxable value on which the tax is imposed is determined by adding the CIF value plus the amount effectively paid for import duties, luxury excise tax or specific taxes, as well as any other that impacts on the import and any additional charges that appear in the customs declaration. The tax thus determined must be stated separately in those documents and the payment must be demonstrated before the corresponding goods are taken from the customs warehouse.

5.2. Exchange Rate Rules
The GST Law does not establish specific exchange rate rules. However, as a general rule, the Costa Rican Central Bank Act establishes that the currency of the country will be the Costa Rican colón (CR ¢). However, article 48 of the Central Bank Act also establishes that transactions in foreign currency will be valid and enforceable, but may be paid at the customer's discretion in Colones, at the exchange rate determined by the Central Bank of Costa Rica.

In this sense, the taxpayer of the GST must report the resulting tax in the appropriate returns in Costa Rican colones.

5.3. Rounding Rules
There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate
The Standard Rate is 13% of the net sale price.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
To the residential consumption of electric energy it will be applied a permanent rate of 5%.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following goods are exempt from GST:

• Goods included in the Basic Food Basket;
• Tires and the retread of tires exclusively for agricultural use;
• The veterinary products and farming materials that are determined jointly by the Ministry of Agriculture and Cattle Breeding and the Ministry of the Treasury;
• Medicines;
• Kerosene;
• Diesel for non-sport fishing;
• Books;
• Musical compositions;
• Framed and non-framed paintings created in Costa Rica by national or foreign painters;
• Caskets;
• Monthly consumption of residential electricity equal or less than 250 kw/h; when the monthly consumption exceeds 250 kw/h, the tax will apply to the total kw/h consumed; and
• The export of taxed and non-taxied goods and the re-importation of national goods that take place within three years after their export.
7.2. Exemption with right to deduct input VAT (Zero rated supplies)
There are no exemptions with right to deduct input tax.

8. Deductions

8.1. VAT recovery
Input VAT incurred by taxable persons can be offset against output VAT as a credit, provided that it is duly supported by invoices and registered in the taxpayers’ accounting.

The tax debit is determined applying the rate of the tax to the total taxable supplies of the corresponding month, in addition to the tax paid for insurance premiums that protect goods, machinery and materials directly incorporated or used in the manufacture of the good or the supply of taxed services.

The tax credit is determined by adding the tax actually paid by the taxpayer on the purchases, import or introduction of goods during the corresponding month. The tax credit will apply on the acquisition of goods that are physically incorporated in the manufacture of goods exempt from sales tax, as well as on the machinery and equipment that are directly destined to the production of said goods. Likewise, the tax credit will apply on the acquisition of goods that are physically incorporated in the production of goods and that are exported whether or not they are exempt from the payment of this tax.

In all cases, the tax credit for local purchases must be backed by invoices or receipts duly authorized by the Tax Administration.

It is important to note that, in Costa Rica, the sales tax credit will only be applicable on the purchase of taxable goods and services that are physically incorporated in the manufacture of goods levied with sales tax; therefore, the sales tax paid on goods and services that are not physically incorporated in the productive process, will not be applied as a credit against the taxpayer’s sales tax liability.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
A GST registration must be filed immediately at the start of the business activities in Costa Rica. If the taxpayer does not register, the tax authorities may register the foreign company or individual ex officio. In this case, the person may not take advantage of the tax credit for the goods acquired prior to the registration by the tax authorities.

9.2. Registration for taxable persons not established in the country
The taxable person not established in country will have to file the registration form (Registry, De- Registry or Modification Form) with the tax authorities, registering as a GST taxpayer. In addition, the tax authorities may require the person to register as an Income Tax taxpayer.

9.3. Application Procedure
The registration form is filled out with the Taxpayer’s information, address, business activity and other requested information, and signed by the taxpayer or their duly appointed legal representative. The form is then filed with the nearest local tax authority office. Once filed, the Tax Administration will issue a confirmation letter which has to be kept in the company’s permanent accounting records.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
No exemption is available. If the individual is carrying out any of the activities described by the GST Law, they are obligated to register.

9.7. Joint Liability
No joint liability applies in Costa Rica. In case that a person is carrying out supplies of taxable goods or services in Costa Rica, they will be considered the liable taxpayer.
10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
Any person who is carrying out the activities described in the GST Law will be liable to account for and pay VAT.

Notwithstanding the penalties that they may be subject to, the taxpayers that do not comply with the obligation to register, will be required, in any case, to pay the tax and will not have the right to a refund or credit for the tax paid on the existing goods in their inventory at the date of their registry as taxpayers.

10.2. Registration
The liable taxpayer will have to file a registration form before the Tax Administration in order to obtain GST registry. In addition, the Tax authorities may require the person to register as an Income Tax taxpayer. The registration must be filed immediately at the start of the business activities in Costa Rica. If the taxpayer does not register, the Tax Administration may register the foreign company or individual ex officio. In this case, the person may not take advantage of the tax credit for the goods acquired prior to the registration by the tax authorities.

10.3. VAT Identification Number
There is no separate GST Identification Number. Instead, the individual’s personal identification number or the company’s corporate identification number is used.

10.4. Tax authority
The Tax Authority is the General Tax Administration, which is part of the Ministry of the Treasury.

10.5. Invoicing

10.5.1. Valid Invoice
Valid invoices will have the following information:

- Full name of the owner or the legal and commercial name of the business;
- Identification number of the owner or business;
- Consecutive numbering;
- Date of issue;
- Conditions of the supply (i.e. in cash, on credit, etc.);
- Name and identification of the printing office (at the foot of the page);
- Full name of the customer;
- Identification number of the customer if such customer is a GST taxpayer;
- Detail of the goods or services sold, unit price, and amount of the transaction in local currency;
- Any discounts applied;
- Subtotal;
- Amount of any luxury excise tax, when applicable;
- Value of the services supplied, separating taxable services from exempt services, when related to the supply of taxable services or goods;
- Net sale price (without GST);
- Amount of the tax; and
- Total amount of the invoice.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
In the case of outsourcing and self-billing, the withdrawal of the goods must be duly documented in accordance with the company’s internal documentation policies and the corresponding GST declared and paid as corresponds in the month’s GST return.
10.5.3. Electronic Invoicing
Electronic invoicing is allowed, as long as the above mentioned information is contained in the invoice and the system that generates the invoices is trustworthy and auditable.

10.6. Credit notes and debit notes
In general terms, supplies must always be documented by an invoice. However, under certain exceptional circumstances, a credit note may be used to document a decrease of a sale (such as the return of defective goods, or discounts).

10.7. Books and Accounting Registers/Records
The company must keep its accounting books in accordance with the International Financial Reporting Standards (IFRS).

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Taxpayers must keep any information related to tax matters in general for a period of no less than five years from the end of the tax period.

10.8.2. Format of Archiving
Accounting records must be kept physically (e-archiving is not allowed).

10.8.3. Place of Archiving
The law does not specifically state that the tax related records must be kept on the taxpayer’s premises. However, the law does mention that the taxpayer must exhibit said information at the Tax Administration’s request.

10.9. Supporting documentation
Other than the above mentioned information, no other tax related information is required to be retained by the Taxpayer.

10.10. Tax period and VAT returns
GST is declared and paid on a monthly basis, within the first 15 calendar days of the month following the tax period to which it relates. Large taxpayers are allowed to submit their tax returns electronically.

10.11. Due Date for payment of VAT
The GST return is due within the first 15 calendar days of the month following the tax period to which it relates.

10.12. Refunds of VAT
Where input GST exceeds output GST at the end of each period, taxpayers can either credit such balance against future GST returns or request a refund.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
There are no additional reporting requirements.

11. Auditing

11.1. Auditing
The Costa Rican Tax Administration carries out periodic auditing of Taxpayers, in accordance with the parameters established in the General Administration and Fiscalization Regulations.

11.2. E-Auditing
There are no specific provisions on this topic

12. Penalties and risks for non-compliance

12.1. Penalties
Penalty for no registration is 50% of one base salary (roughly USD 400) per month of no registration up to three base salaries (roughly USD 2.280).
The following penalties apply for default in tax payment:

- 50% based on the corresponding sanction.
- For those infractions that could be deemed as serious or very serious, according to the Law, and
- as long as the base for the sanction is equal or below 500 base salaries:
- 100% over the entire base of the penalty, as appropriate.
- 150% over the entire base of the penalty as appropriate.

**12.2. Interest on late payments**
Interest on late payments is determined by the Tax Administration on a yearly basis.

**12.3. Joint Liability**
There are no specific provisions on this topic.

**13. Statute of Limitations**

**13.1. Recovery of VAT by the tax authority**
By virtue of the Law on the Strengthening of the Tax Management, No. 9069 which entered into force on September 28, 2012, the Code of Tax Norms and Procedures was amended, modifying the statute of limitations term previously ranging from 3 to 5 years, to a new term which ranges from 4 to 10 years.

It is worth clarifying that the longer term of the statute of limitations (the one modified from 5 to 10 years) applies to the cases in which taxpayers had not being registered before the Tax Administration, or where being registered, they have submitted statements qualified as fraudulent, or if they have not submitted them at all.

**13.2. Recovery of VAT by the taxable person**
Three years from the month in which the payment was made.

**14. Rulings and Decisions**

**14.1. Rulings**
The Code of Tax Rules and Procedures establishes a request for private tax ruling mechanism in which the taxpayer may request the Tax Administration for confirmation of the applicable tax treatment on any given specific GST issue. This ruling will be binding for the taxpayer and the Tax Administration. The Tax Administration has 45 working days to rule.

The Tax Administration periodically issues decrees and regulations in relation to GST. These may be binding to the taxpayer. Therefore, it is important for companies to maintain themselves informed of these decisions.

**15. Abuse of Law**

**15.1. Anti-avoidance and VAT Fraud measures**
The Tax Administration has implemented the use of cross referencing of information in order to prosecute GST avoidance and fraud.

**16. Other Rules**

**16.1. VAT withholding regimes**
Public or private entities processing payments of credit or debit cards, must withhold GST from the supplier up to 6% of the net sale price, which will be considered as payment of GST on behalf the taxpayer.

**16.2. Other regimes**

- Simplified Regime: Individuals who are GST Taxpayers may choose to enter into the simplified GST regime, whereby a variable factor fixed by the Tax Administration is applied to their total taxable supplies and reported on a quarterly basis.
- Special Determination System of the Tax at the Factory, Wholesale and Customs Level:
• The Tax Administration has the power to fix the taxable basis and to order the collection of the tax at the factory, wholesale or customs level, on the sale price to the end retail consumer when the collection of the tax is difficult.

• Exempted purchases: GST taxpayers carrying out exempt supplies may request the Tax Authorities to authorize that supplies to the taxpayer are carried out free of GST.
Costa Rica
Useful contacts

Carlos Barrantes
Partner
Edificio PwC
Los Yoses, San Pedro de Montes de Oca
De la Cámara de Industrias de Costa Rica, 125 al oeste
San José, Costa Rica
Tel.: + (506) 2224 1555 ext. 163
Email: carlos.barrantes@cr.pwc.com

Ana Elena Carazo
Director
Edificio PwC
Los Yoses, San Pedro de Montes de Oca
De la Cámara de Industrias de Costa Rica, 125 al oeste
San José, Costa Rica
Tel.: + (506) 2224 1555 ext. 153
Email: elena.carazo@cr.pwc.com

Luis Diego Barahona
Director
Edificio PwC
Los Yoses, San Pedro de Montes de Oca
De la Cámara de Industrias de Costa Rica, 125 al oeste
San José, Costa Rica
Tel.: + (506) 2224 1555 ext. 107
Email: luis.barahona@cr.pwc.com

Marianela Vargas
Senior Manager
Edificio PwC
Los Yoses, San Pedro de Montes de Oca
De la Cámara de Industrias de Costa Rica, 125 al oeste
San José, Costa Rica
Tel.: + (506) 2224 1555 ext. 142
Email: marianela.vargas@cr.pwc.com

Ismael Vargas Villalobos
Consultant
Edificio PwC
Los Yoses, San Pedro de Montes de Oca
De la Cámara de Industrias de Costa Rica, 125 al oeste
San José, Costa Rica
Tel.: + (506) 2224 1555 ext. 121
Email: ismael.vargas@cr.pwc.com
Dominican Republic

1. Scope

ITBIS (Spanish acronym for “Impuesto a la Transferencia de Bienes Industrializados y Servicios”) is the Dominican VAT. This is a national tax.

The following transactions are subject to VAT:

• Transfer of industrialized goods;
• Importation of industrialized goods;
• Supplies of services;
• The lease of movable assets and real property, except for housing use.

Industrialized goods are those subject to any transformation process.

2. Taxable Persons

2.1. Definition

The law establishes that taxable persons are individuals and/or legal entities (whether national or foreign) that perform any of the activities that are within the scope of the VAT law.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in the Dominican Republic.

3. Place of supply

3.1. Goods

The supply takes place where the goods are located when the supply takes place. Local supply of goods is taxable, regardless of where the contract was entered into or payment was made.

3.2. Services

The place of supply of services is where the services are performed. Services supplied by non-residents to local recipients are out of the scope of Dominican VAT, except if such party has a Permanent Establishment in the Dominican Republic.

4. Chargeable event, chargeability of tax

4.1. Goods

The taxable event occurs when the invoice or document which supports the transaction is issued, or the goods are delivered, whichever occurs first.

4.2. Services

The taxable event in the case of supply of services arises when one of the following events occur (whichever comes first):

• The issuance of the invoice, or
• The completion of the service, or
• Partial or total payment of the service to be provided.

4.3. Imports

VAT is assessed and paid to the Customs Authority once the goods are imported and they are at the importer’s disposition. The taxable event concurs with the Customs obligation payment.
5. Taxable Amount

5.1. General Rule
VAT will be calculated as follows:

- For the supply of goods: net price of the supply plus additional services provided by the supplier (transportation, packaging, charter fee, and interests on financing) plus any applicable excise taxes less bonuses and discounts;
- For the supply of services: the price of the service excluding mandatory tip;
- For import of goods: CIF value plus customs taxes and any applicable excise taxes.

5.2. Exchange Rate Rules
There are no specific provisions on exchange rate; market exchange rates should be used instead.

5.3. Rounding Rules
There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate
Standard rate is 18%.

6.2. Increased Rate
There are no increased rates in the Dominican Republic.

6.3. Reduced Rate
Special rate of 8% applies to certain products belonging to the market basket of consumer goods.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
In principle, the exempt supplies would imply the application of restrictions to the deduction of input VAT, such as the right to deduct only a proportion of some of the input tax or a 100% non deduction of the tax.

The main goods whose supply is exempt are the following (these are generic groups, but specific tariff item numbers should be taken into consideration):

7.1.1. Goods
- Farming products in natural state;
- Fresh or frozen meat;
- Raw fish for popular consumption;
- Milk and its derivatives and honey;
- All the seeds used for crop purposes;
- Legumes, tuber (unprocessed) for massive consumption;
- Unprocessed fruits for massive consumption;
- Coffee (non decaffeinated)
- Cereals, wheat, grains;
- Products for milling;
- Seeds for oil, seeds for sowing, or animal food;
- Sausage;
- Mineral and natural water;
• Baby food, pastas and bread;
• Cattle supplies;
• Fuel;
• Pharmaceuticals;
• Pesticides, rat poison and other anti-rodents, fungicides, herbicides;
• Other supplies or capital goods for agriculture;
• Books and magazines;
• Educational material; and
• Wheelchairs and other equipment for the handicapped;
• Goods within the Free Zones (sales from Free Zones to the local market are taxable).

7.1.2. Services:
The following are exempt from this tax:

• Educational and cultural services;
• Health services;
• Pension and Retirement Plans;
• Financial services, including insurance;
• Ground transportation of people and cargo;
• Power, water and trash pick-up services;
• Leasing of housing;
• Funeral services;
• Beauty parlor services;
• Other non-taxed services:
  a. Services provided to public institutions;
  b. Services provided to entities under a Free Trade Zone Regime;
  c. Services provided to embassies, consulates and international organizations exempt from this tax pursuant to international legislation;
  d. Services provided by Chambers of Commerce acknowledged by the Government;
  e. Export services.

Furthermore, tax holidays exist under different types of laws which grant specific exemptions from this tax (i.e. tourism incentive law, industrial incentive law, etc). See section 7.2 below.

7.2. Exemption with right to deduct input VAT

• The export of tangible goods is subject to 0% VAT (this includes supplies to tax exempt regimes such as Free Trade Zones);
• Other supplies to exempt regimes (some applicable to tourism and industrial entities subject to the incentive regime);
• Supply of VAT exempt goods by the manufacturer.

8. Deductions

8.1. VAT recovery
Input VAT incurred by a person liable for tax can be offset against output VAT, provided that it is attributable to taxable transactions and some additional requirements are met. Input VAT generated at a start-up stage can also be recovered.
In the event that VAT input relates to both taxed and exempt transactions, if it is not possible to determine the percentage related to each of the activities, VAT input will be recoverable using a pro rata calculation. Bear in mind that some transactions will not be treated as exempt even when they are not subject to the tax (i.e. supplies to special regimes).

Input VAT to be recovered in no case should be related to the acquisition of goods and service that should be integrated or will be part of buildings.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
If transactions subject to VAT are carried out in the Dominican Republic, there should be a registration for VAT. However, in the case of foreign entities which supply services in the country, in practice the tax authorities do not claim the registration unless a permanent establishment arises.

No reverse charge mechanisms apply in the Dominican Republic.

9.2. Registration for taxable persons not established in the country
Please refer to VAT Liabilities above.

9.3. Application Procedure
Dominican legislation does not provide any registration mechanism for non-established businesses.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
Joint liability only applies to VAT withholdings applicable in certain cases.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
Legal entities or sole proprietors are obliged to account for VAT.

10.2. Registration
There is a tax registration ID which is used for all taxes (“Registro Nacional de Contribuyentes”-RNC).

10.3. VAT Identification Number
The RNC is used for VAT purposes and consists of nine digits.

10.4. Tax authorities
The VAT Administrator is the General Directorate of Internal Revenues (DGII, Spanish acronym for “Dirección General de Impuestos Internos”).

10.5. Invoicing

10.5.1. Valid Invoice
Every supply must be documented on an invoice with a Fiscal Supporting Document Number (acronym in Spanish NCF). The NCF sequence is granted by the Tax Authorities upon request from taxpayers. Non compliance with this obligation triggers non-deductibility of the related costs/expenses incurred by the customer for Corporate Income Tax purposes and no right to credit the input VAT.

All supporting documents shall have the following printed beforehand:

• Its classification (whether it is an invoice, credit/debit note, etc);
• Sequential number (NCF) used by the entity or the registry;
• Date of issuance;
• Tax ID number (RNC);
• Commercial name (as recorded in local IRS);
• Place of issuance;
• Number assigned by the DGII in the case of authorized publishing establishments;
• Information about the customer:
  a. RNC of the customer
  b. Legal Name
• Information about the good or service supplied:
  a. Description
  b. Quantity
  c. Measurement unit
  d. Code or numeric identification (i.e. bar code), if applicable
  e. In case the good or service supplied is VAT exempt, an “E” (for exempt) shall be placed at the left of the description
• Information about the value of the transaction:
  a. Unit price of the goods/services
  b. Transaction amount excluding applicable taxes
  c. Discounts, bonuses and other charges, if applicable
  d. Total value of the supply, including taxes
• Information on taxes: VAT, Excise Tax and any other applicable tax shall be indicated in a separate manner.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Invoices can be preprinted by an authorized printing services provider or by the taxpayer itself, as long as the above requirements (in the “Invoicing” section) are met.

10.5.3. Electronic Invoicing
Electronic invoicing exists in the Dominican Republic.

10.6. Credit notes and debit notes
Credit/debit notes shall follow the rules established under the “Invoicing” section. In addition, they should detail the NCF (invoice) that they affect.

10.7. Books and Accounting Registers/Records
Books must be kept up to date, in Spanish and in the local currency (Dominican pesos) and the books must be kept in the Dominican Republic for 10 years. The financial statements should be audited by independent accounting firms or by a certified public accountant.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
The retention period for the books is ten years from the end of the tax period to which they relate.

10.8.2. Format of Archiving
Electronic files are allowed.

10.8.3. Place of Archiving
There is no provision in the law regulating the place where the records and books must be archived. However, the archive should be available within Dominican Republic upon authorities' request.

10.9. Supporting documentation
In order to support the transactions, taxpayers must keep all related documents.

10.10. Tax period and VAT returns
The tax period for the VAT is the calendar month and return is due within the first 20 calendar days of the month following the tax period to which it relates. In case of a holiday or weekend, the following business day.
VAT returns must be submitted electronically through the Tax Authority’s website, using the access code that should be requested to the tax authority.

10.11. Due Date for payment of VAT
The due date for VAT payment is the same as the filing deadline.

10.12. Refunds of VAT
VAT is refunded to exporters and manufacturers of VAT-exempt goods; or in the case of credits arising from VAT overpayment on imports and payments to local providers. Bear in mind that refunds are subject to approval by the DGII and in practice most expedited cases involve refunds to exporters and VAT-exempt goods manufacturers. There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
A monthly purchases report (Form 606) should be submitted with details of local purchases. Input VAT not included in the report will be disallowed by the tax authorities.

11. Auditing

11.1. Auditing
Tax Authorities have three years (extended to five years if the taxpayer has not filed the tax return or if the tax authorities have notified the taxpayer of a tax audit) to perform audits related to the transactions carried out by the taxpayers.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
Late filing has a penalty of 10% for the first month plus 4% on each subsequent month, calculated on the tax due.

12.2. Interest on late payments
1.73% interest is applied for each month from the due date.

12.3. Joint Liability
In case of VAT, the joint liability only applies to VAT withholdings applicable in certain cases. In principle, joint responsibility for tax obligations is imposed on boards of directors, administrators, trustees, liquidators, partners and third persons who facilitate tax evasion.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authorities
The statute of limitations for claiming the VAT by the taxpayer is three years from the due date, however it can be extended to five years as indicated above.

13.2. Recovery of VAT by the taxable person
If the credits are timely reported through the IT-1, there is no limitation since the credits can be carried forward indefinitely. If the taxpayer does not report it, then the statute of limitation is three years.

14. Rulings and Decisions
Taxpayers are allowed to request rulings before the tax authorities to support specific transactions for tax purposes. It takes approximately two months to obtain a final resolution from the tax authorities. Rulings are binding for the requesting taxpayer.
15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The main measure undertaken by the authorities in the last few years is to implement a cross-information system consisting of:

- The control of invoices issued by the taxpayer through the implementation of the Fiscal Supporting Document System;
- The obligation for the taxpayers to submit to the Tax Authorities a report of the invoices issued and received from third parties;
- The electronic checks of the information provided by third parties in their tax returns against the one submitted by the taxpayers.

16. Other Rules

Aside from withholding regimes and special exemptions, there are no other special regimes.

16.1. VAT withholding regimes
The VAT withholding regimes are:

- Payments for services supplied by individuals,
- Payments for goods sold by individuals (except if they issue the pre-authorized NCF),
- Payments for certain services supplied by entities (e.g. consulting, construction).
Dominican Republic
Useful contacts

Ramón Ortega
Partner
Edificio Bank of Nova Scotia, 3rd Floor
Av. John F Kennedy, Esquina con Av. Lope de Vega
Santo Domingo, Dominican Republic
Tel: +1 [809] 567-7741
Email: ramon.ortega@do.pwc.com

Andrea Paniagua
Partner
Edificio Bank of Nova Scotia, 3rd Floor
Av. John F Kennedy, Esquina con Av. Lope de Vega
Santo Domingo, Dominican Republic
Tel: +1 [809] 567-7741 ext. 2500
Email: andrea.paniagua@do.pwc.com

Juan Tejeda
Senior Manager
Edificio Bank of Nova Scotia, 3rd Floor
Av. John F Kennedy, Esquina con Av. Lope de Vega
Santo Domingo, Dominican Republic
Tel: +1 [809] 567-7741 ext. 2365
Email: juan.tejeda@do.pwc.com

Caroline Bono
Supervisor
Edificio Bank of Nova Scotia, 3rd Floor
Av. John F Kennedy, Esquina con Av. Lope de Vega
Santo Domingo, Dominican Republic
Tel: +1 [809] 567-7741 ext. 2364
Email: caroline.bono@do.pwc.com
1. Scope

In general terms VAT applies as follows, when performed within Ecuadorian territory:

- Supplies of all goods (imported and produced locally) and services;
- Importation of goods and services.

2. Taxable Persons

2.1. Definition

Taxable persons are individuals and/or legal entities performing VAT taxable activities, such as supplies or importation of goods and services.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Ecuador.

3. Place of supply

3.1. Goods

Supplies of goods manufactured or supplies of goods located in Ecuador are subject to VAT.

3.2. Services

VAT is due when services are rendered in the country by residents in Ecuador (entities or individuals) to other Ecuadorian persons or residents.

Services rendered abroad by foreigners to Ecuadorian residents are levied with VAT, as long as, in general terms, the benefit or use of the service takes place in Ecuador. VAT must be self assessed, and withheld by the resident taxpayer. Such VAT must be considered as tax credit.

4. Chargeable event, chargeability of tax

4.1. Goods and Services

The VAT applies on the sale or transfer of ownership of all movable assets sold by an entity that sells taxable goods, as well as on the supply of taxable services, on a regular basis.

4.2. Imports

Import VAT is due and payable once the goods are brought into the Ecuadorian territory. In case of services, upon registration into the accounting records of the entity.

5. Taxable Amount

5.1. General Rule

The taxable amount of supplies of goods or services shall be the total value of the goods or services, including other taxes and costs related thereto. Adjustment on the taxable amount should be done in the event that (i) discounts given to customers and specified on the sale invoice, (ii) returned goods, and (iii) interest or other finance charges on credit sales.

The taxable amount on importations is the CIF value of the goods plus other taxes and Customs duties assessed by the Customs Services.

5.2. Exchange Rate Rules

There are no specific provisions on this topic. However, if any transaction is expressed in foreign currency, it may be converted into the official currency (US Dollars) by applying the exchange rate published by the Central Bank of Ecuador on the date in which the chargeable event takes place.
Please note that currently, the US Dollar is the official currency in Ecuador.

5.3. Rounding Rules
Ecuadorian legislation does not provide rounding rules, but the VAT returns accept two decimal numbers. Consequently, the second decimal has to be rounded up (0.05 to 0.09) or down (0.01 to 0.04) when filing said returns.

6. Rates

6.1. Standard Rate
The VAT standard rate is 12% applicable to supply of goods, imported or produced locally, and on services supplied within the Ecuadorian territory or imported.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
Please see below.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following goods are taxed at 0% VAT upon either importation or supply (but not limited to):

- Agricultural goods and foodstuffs when these remain in their natural status.
- Refrigeration or packaging of goods without further processing to alter their natural condition. Including milk, meats, sugar, salt, bread, butter and margarine, flour, and cooking oil.
- Drugs, medicines and other pharmaceutical products, including raw materials for their manufacturing.
- Fertilizers, insecticides, animal foods, and similar products, including the raw materials required for processing such goods.
- Agricultural machinery and equipment.
- Paper and books.

The following services are taxed at 0% VAT rate:

- Transportation of persons (other than air transportation), transportation of cargo; (other than local air transportation of cargo);
- Health, educational, religious, funeral services;
- Book printing services;
- Rental of dwelling (housing);
- Water, electric, sewage and other public services including waste collection;
- Exported services;
- Road tolls;
- Aerial fumigation and refrigeration services related to the conservation of foods staples, as well as certain food processing services;
- The following transactions are exempted from VAT:
  - Contributions in kind to capital of companies;
  - Inheritance and assets arising from liquidations of companies;
  - Transfer of business ongoing concern;
  - Joint Ventures, mergers, acquisitions, take-over, and spin-offs;
• Donations to public entities and non-profit organizations; and
• Transfers of shares and securities.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Exports of goods and services are zero-rated. Exportation of services is zero-rated provided that such services are used outside Ecuador and the related costs are not charged to an Ecuadorian entity.

8. Deductions

8.1. VAT Recovery
VAT paid on local acquisitions of goods, services or importation of goods used on the manufacturing or supplying goods or services taxed at 12% can be recovered and offset directly as a tax credit on supplies taxed at a 12% rate. The VAT paid on new raw materials or components required in the production of goods or supply of services are also creditable when the final product is considered taxable at 12%.

Where VAT is paid on fixed assets that are required in the production and supply of taxable goods or services taxed at 12%, the tax amount can also be recovered.

Finally, any VAT paid on raw materials, components or fixed assets necessary for the production of exported goods is also recoverable.

VAT may not be recovered (by either tax credit or other means) on the local acquisition or importation of goods and services that are used for the production of goods or services taxed at 0% VAT. In these cases, non-recoverable VAT becomes part of the cost of the purchased goods and services.

Proportional VAT recovery (tax credit) is allowed on the purchases of goods and services levied with 12% VAT used for the sale of goods and services levied with 0% and 12% VAT, based on the amount of sales.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT purposes provided that they operate through a permanent establishment in Ecuador or if they carry out its activities in Ecuador through an establishment.

9.2. Registration for taxable person not established in the country
Ecuadorian legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific rules on this topic.

9.4. VAT Registration: Simplification
There are no specific rules on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier in taxable transactions is the person liable to account for the VAT due.

In the event that supplies of services where the supplier is a non-resident, the Ecuadorian entity receiving or using the services must self-assess (reverse-charge) the VAT due on the transaction.

When a VAT withholding applies, withholding agents are liable to account for VAT withheld.
10.2. Registration
Resident businesses should register and obtain a tax identification number (“Registro Único de Contribuyentes” - RUC) which is used for tax purposes so far.

10.3. VAT Identification Number
The RUC is also used for the compliance of VAT obligations. The VAT identification number contains 13 digits.

10.4. Tax authority
The Internal Revenue Service (“Servicio de Rentas Internas” - SRI) is responsible for the administration of VAT, and thus, is enabled to perform tax audits. If liabilities are assessed as a consequence of an audit, the SRI is entitled to assess unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing
10.5.1. Valid Invoice
Taxpayers are required to issue invoices for supplies of goods or services in local currency (US dollars), regardless of whether the transfer involves a sale or a gratuity. The VAT amounts must be listed separately on the invoices.

Invoices must include, at minimum, the following data:

- Name, address, telephone number, and tax identification numbers of the supplier and purchaser of goods and services.
- Amount of the transactions, amount of VAT and the total amount.
- Description of the supplied services or the goods sold.
- It must contain the tax authorities invoicing and printing authorization number.

In addition, the invoice form should be printed by an authorized printing entity or by the taxpayer itself (following a specific format and dimension (i.e., size). The tax authorities must grant the corresponding authorization to the printer prior to printing the invoice forms. The invoice form must include certain information such as the expiration date which is pre-determined by the tax authorities as well as other mandatory information required by the Ecuadorian legislation.

It should be noted that the invoices have to be used within one year from their printing date. Otherwise, they will not be valid for tax purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Self-billing is required only in the event of self-consumption.

There are no provisions related to outsourcing the issuance of invoices.

10.5.3. Electronic Invoicing
New legislation states that electronic invoicing is allowed in Ecuador, however a certification and authorization from the authorities is required.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or a debit note. These documents should be issued following the same requirements applicable to the invoice/receipt to which they are related.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records
Taxpayers must keep all accounting records (i.e., general ledger, reports, etc) and supporting documentation (i.e., invoices, receipts, contracts, reports, etc).

10.8. Retention of and access to: books, registers, records and invoices
10.8.1. Retention Period
For VAT compliance, accounting records and supporting documents must be stored for at least six years from the end of the period to which they are related to.
10.8.2. Format of Archiving
There is no specific format of archiving.

10.8.3. Place of Archiving
Accounting records must be stored at the company’s domicile. However, external storage facilities are not prohibited and are commonly used.

10.9. Supporting documentation
There is no specific regulation related to the supporting documentation for invoices.

10.10. Tax period and VAT Returns
Taxpayer must file VAT returns on a monthly basis. The due date for the submission of the VAT returns is ruled by a tax calendar set by the Tax Authorities. This calendar assigns a specific calendar day between the 10th and the 284th of the corresponding month, to the ninth digit of the taxpayer’s tax number (RUC).

10.11. Due Date for payment of VAT
VAT must be paid within the following month after the end of the tax period.

10.12. Refunds of VAT
Exporters and their suppliers, and government suppliers, can apply for a VAT refund before the Tax Authorities.

There is no VAT refund mechanism for non-resident businesses. VAT withheld in excess to the taxpayer is also refundable.

10.13. Additional Reporting (statements)
VAT taxpayers are required to file an additional monthly report known as “Transactional Annex”.

11. Auditing

11.1. Auditing
According to the Tax Code, the Tax Authorities are enabled to audit three years backwards. However, this period may be extended to six years when the corresponding taxes have not been totally or partially paid.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
Late filing of VAT returns triggers the imposition of fines calculated at 3% per each monthly period of the unpaid VAT. In addition, regular interest rates are also assessed, based on interest rates set quarterly by the Tax Authorities.

The lack of issuance of bills of sale or invoices, as well as non-payment of collected VAT or VAT withheld to the Tax Authorities is considered tax fraud, which may involve closure of the business establishment and criminal offense for the legal representatives.

Issuing invoices or other documents without the proper authorization is subject to a penalty up to approximately USD 333. If the breach is verified by the Tax Authorities, the penalty may include the closure of the establishment.

12.2. Interest on late payments
Interests are due on late payments at the rate assessed by the Tax Authorities. The interest rate is quarterly published.

In cases where an exporter files a VAT refund which is not appropriate or false, such taxpayer will be penalized with a fine amounting up to two times the VAT amount refunded or requested on refund.

12.3. Joint Liability
In case of any tax fraud, legal representative, accountant, finance director and all the management staff responsible for overseeing the economic activity are jointly responsible.
13. Statute of Limitations

13.1. Recovery of VAT by the taxable authorities
The Tax Authorities are enabled to review up to 3 years backwards.

13.2. Recovery of VAT by the taxable person
Taxpayers can claim refunds of VAT within 5 years.

14. Rulings and Decisions

The decisions issued by the Tax Authorities are binding for individuals or entities requesting them, being merely informative for other taxpayers.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
There are no specific provisions on this topic.

16. Other Rules

16.1. VAT Withholding regimes
Certain companies qualified by the Tax Authorities as “Special Taxpayers” are also designated as Withholding Agents.

The withholding agents are required to withhold VAT from other entities and persons as follows:

- 30% of VAT on purchases of goods taxed at the 12% rate,
- 70% of VAT on the acquisition of services taxed at the 12% rate, except in the case of services supplied by professionals where 100% of the VAT charged must be withheld.

Withholding agents are also obliged to record the withheld taxes in their accounting books. They must file a return and pay the withheld taxes on a monthly basis. In payments made to individuals, all companies and individuals obliged to keep accounting books, must withhold the VAT due.
Ecuador
Useful contacts

Pablo Aguirre
Partner
Diego de Almagro, N3248 y Whimper.
Quito, Ecuador
Tel.: +(593-2) 382 9351
Email: pablo.aguirre@ec.pwc.com

Cesar Ortiz
Tax Director
Carchí 702 y Av. 9 de Octubre,
Guayaquil, Ecuador
Tel.: +(593-4) 370 0222
Email: cesar.ortiz@ec.pwc.com
1. Scope

Salvadoran VAT or ITBMPS (Spanish acronym for “Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios”) was introduced in El Salvador on September 1, 1992.

The following transactions are subject to VAT when performed within the Salvadoran territory:

- supplies of tangible movable goods;
- withdrawal of tangible movable goods from the inventory made by the company for self-consumption by its partners, directors or personnel;
- importation of goods and services; and the supply of services of any type whether permanent, regular, continuous or periodical;
- technical advice and project designs; lease and sub-lease agreements over tangible goods; lease and sub-lease agreements over real estate for commercial purposes; lease of services in general; construction of real estate properties or building contracts; auctions; freight, whether inland, air or maritime; lease, sub-lease and any form of use regarding trademarks.

2. Taxable Persons

2.1. Definition

Persons subject to VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law. Regarding individuals, they are not required to register for tax purposes if the activities in the past twelve (12) months do not exceed the amount of USD 5,714.29 and the total assets are less than USD 2,285.71.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in El Salvador. In case of several offices and/or branches established within El Salvador, they all report together with the Head office domiciled in El Salvador.

3. Place of supply

3.1. Goods

The supply is subject to VAT when the movable goods are located or registered in El Salvador, notwithstanding the fact that these goods are located abroad temporarily; and even when the acts, agreements or contracts are granted in another country.

3.2. Services

Services are subject to VAT if they are supplied in the country, notwithstanding the fact that the acts, agreements or contracts are granted abroad, and irrespective of the place of payment.

The service is deemed to be supplied in El Salvador if the activity generating the service is performed in the country.

Supplies of services or intangible goods (i.e., trademarks, software, etc.) by non-residents are deemed imported and are taxable in El Salvador by the recipient through self-assessment.

4. Chargeable event, chargeability of tax

4.1. Goods

With respect to the supply of movable goods, the chargeable event occurs when the invoice supporting the transaction is issued. Otherwise, the chargeable event will occur when the price is paid or the movable goods are delivered.

The tax applies even in the case of a default in payment.
4.2. Services
The tax arises in any of the following circumstances, whichever occurs first:

- When the invoice is issued;
- When the service is completed;
- In the case of a lease agreement, when the leased property is provided to the lessee;
- If the service includes a project, when the service is completed; and
- When the price agreed is totally paid, or for each partial payment.

4.3. Imports
In the case of movable goods, the chargeable event occurs at the moment of import. In the case of temporary importation of goods, the chargeable event occurs when the goods are released for free circulation in the local market.

Regarding services, in any of the following circumstances, whichever occurs first:

- When the invoice is issued;
- When the payment is made;
- When the service is completed;

5. Taxable Amount

5.1. General Rule
As a general rule, the taxable amount is the price or remuneration agreed upon by the parties. For imports, the taxable amount is the customs value.

Adjustments to the taxable amount are permitted and will take effect in the period in which they occur, provided these are duly supported with the corresponding invoice, credit or debit notes.

5.2. Exchange Rate Rules
The US Dollar is the legal currency in El Salvador. If the taxable amount stated on the invoice is expressed in another currency, it should be converted into US Dollars, applying the exchange rate corresponding to the date on which the supply took place.

5.3. Rounding Rules
There are no rounding rules established by law. In practice, rounding up and down is applied to the nearest decimal position.

6. Rates

6.1. Standard Rate
The standard rate is 13%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following imports shall be exempt from the VAT:

- Imports made by diplomats and consulate representatives of foreign nations with presence in the country according to international agreements adopted by El Salvador;
Imports made by international organizations to which El Salvador is a party;

• Traveler’s luggage according to customs legislation;

• Donations to non-profit organizations;

• Imports made by municipalities, if the goods imported are for the public benefit of the community;

• Imports of machinery by taxpayers duly registered for this purpose which will be part of the taxpayer’s fixed assets.

• Vehicles for public transportation, which can only be transferred after five years.

The following services shall be exempt from the VAT:

• Health services supplied by public institutions;

• Lease and sub-lease of real estate properties for housing;

• Services supplied under a labor relationship, and those supplied by public and municipal employees;

• Cultural public performances authorized by competent authorities;

• Educational services;

• Interest on deposits and loans, provided by local financial institutions or entities registered at the Salvadoran Central Bank (BCR);

• Interest on securities issued by the Government and/or private entities traded through a stock exchange;

• Water supply by public institutions;

• Public transportation; and

• Insurance premiums covering individuals, and re-insurance in general.

• Contributions made to pension funds.

The following goods shall be exempt from the VAT:

Books, newspapers, magazines and other types of literary works whose purpose is diffusion of ideas.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)

The export of goods and services is subject to a 0% VAT rate. The following are deemed exportations:

• In the case of movable goods, those destined for use and consumption abroad;

• In the case of services, those supplied in the country in favor of non-established entities, used and enjoyed exclusively abroad.

8. Deductions

8.1. VAT recovery

VAT paid by a registered taxpayer in El Salvador on its purchases (tax credit) is credited against VAT collected/charged to its customers (tax debit), on a monthly basis.

Where a tax credit relates both to transactions within the scope of VAT and to exempt transactions, such tax credit will be recoverable using a pro rata calculation.

9. Person liable to pay VAT-non established taxable persons

9.1. VAT Liabilities

Non-resident companies are required to obtain a VAT registration if they carry out activities through a branch or permanent establishment on which VAT is levied in El Salvador.
9.2. Registration for taxable persons not established in the country
Salvadorian legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
The Salvadoran Tax Code establishes joint liability for local contractors in case of cultural, artistic and sport performances held in the country. Also, there is joint liability in case of acquisition of companies, including any global transfer of assets.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier of goods and/or services is the person that is liable to charge and account for VAT on its transactions, except in the case of imports of intangible goods and services when the supplier is a non-established entity. In this case, VAT is self-assessed by the local taxpayer registered for VAT purposes.

Withholding agents are also obliged to account for withheld taxes in their records and must file a return and make payments on a monthly basis.

10.2. Registration
Companies duly incorporated according to the Salvadoran law, as well as foreign companies having a branch in El Salvador, must obtain a VAT registration number (NRC) in El Salvador.

The procedure to obtain a VAT registration (NRC) in El Salvador is as follows:

- Complete and file Form F-210 at the tax authorities offices;
- The legal representative of the company must sign the Form and attach the documentation stating his legal capacity;
- Attach a copy of the Articles of Incorporation (By-laws) of the company, and a copy of the ID document of the legal representative;
- Pay registration fees.

Individuals whose supplies of movable goods and services in the last 12 months do not exceed USD 5,714.29, or whose total assets do not exceed USD 2,285.71, are not required to register. However, such persons may register voluntarily for VAT purposes.

10.3. VAT Identification Number
The taxpayer registration number (“Número de Registro de Contribuyente”- NRC) is used for all VAT tax purposes in El Salvador.

The taxpayer ID card must contain the complete legal name of the company and its main economic activity according to codes pre-established by the tax authorities, indicating also the classification or not as a Large Taxpayer (“Grande Contribuyente”) for VAT withholding obligation in local transactions.

10.4. Tax authority
The General Directorate of Internal Revenue (“Dirección General de Impuestos Internos”DGII) is the government body responsible for the administration of the VAT in El Salvador, and the General Directorate of Customs (“Dirección General de Aduanas”-DGA) in case of imports.
The DGII and DGA are part of the Ministry of Treasury.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format according to the requirements established by the Salvadoran Tax Code, as follows:

• Printed in a book numbered correlatively by an authorized printing-office;
• Issued in triplicate;
• The complete legal name, economic activity, address of the business, and tax registration number of the issuer of the invoice. This information also applies to the party acquiring the goods or services;
• Date of issuance;
• Description of the goods and services acquired, including the price per unit;
• The amount of VAT charged, separately stated;
• Number and date of the authorization issued by the tax authority for the correlative numbers.

Invoices are issued in US Dollars, as currently this is the legal currency in El Salvador. Invoices issued by non-established entities are not required to fulfill such requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Invoice formats must be printed by authorized printing houses or by electronic means if the tax authorities grant the taxpayer permission for this purpose.

In any case, taxpayers must request the assignment of the correlative numbers to print the legal invoices from the tax authorities.

10.5.3. Electronic Invoicing
Taxpayers with electronic invoicing systems are required to send on-line to the Tax Administration server the amounts of each supply of goods or services, accounting records and VAT control Books related information. Notwithstanding, in the practice the Tax Administration does not have the infrastructure to receive this information on-line for electronic invoicing purposes.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or a debit note. These documents should be issued following the same requirements applicable to the original legal invoice (in Spanish “Comprobante de Crédito Fiscal”- CCF) that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records
Both the Salvadoran Commerce Code and the Tax Code prescribe the principal accounting books to be maintained by companies. The books and records normally required are:

• General Ledger
• Financial Statements Book;
• Purchase book for VAT purposes;
• Book of transactions with final consumers and detail of exports;
• Book of transactions with VAT registered taxpayers; and
• Other special records and files required for VAT control.

These books must be authorized by the external auditor or by the Salvadoran Registry of Commerce, and each page must be numbered and then stamped with the seal of the public accountant.
According to the Commerce Code, all records must be in Spanish, and all accounts recorded in Salvadoran Colones or US Dollars. In practice, accounts are recorded in US Dollars since it is the legal currency in El Salvador.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
The retention period is ten years from the issuance or reception of the corresponding information or document.

10.8.2. Format of Archiving
Paper copies should be archived, and electronic media (i.e., microfilm and discs) are also permitted but only after four years the document was issued.

10.8.3. Place of Archiving
According to the Salvadoran Commercial Code, the accounting records must be kept in El Salvador, even for branches, agencies or subsidiaries of foreign companies.

10.9. Supporting documentation
Taxpayers duly registered for VAT purposes in El Salvador are required to retain all the necessary information/documentation (i.e. invoices, credit notes, etc.) to support the nature and truthfulness of their transactions and tax deductions. Otherwise, tax authorities may challenge taxes paid and/or determine additional taxes, interest and penalties, as applicable.

10.10. Tax period and VAT returns
Taxpayers duly registered for VAT purposes in El Salvador must file monthly VAT returns (Form F-07), irrespective of whether they have performed taxable transactions or not, or even if there is no VAT payable in that particular month. VAT returns can be filed electronically through the Tax Authority’s website.

The VAT return is due by the 10th working day of the month following the tax period to which it relates.

10.11. Due Date for payment of VAT
The VAT must be paid on the same date as the return filing.

10.12. Refunds of VAT
Salvadoran legislation provides a refund of VAT associated with export operations.

Otherwise, local VAT registered taxpayers obtain a credit where input VAT exceeds output VAT at the end of each monthly period, carried over to subsequent periods until it is completely deducted.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
Taxpayers must also file a monthly VAT report on tax withheld to third parties.

10.14. Other measures
A taxpayer registered for VAT purposes must inform the tax authorities on the closing of its business and about the legal invoices which will remain unused and request deregistration from the system.

11. Auditing

11.1. Auditing
The tax authorities are entitled to perform audits to ensure tax compliance and revenue collection. This is done by reviewing the taxpayers accounting records and tax returns.

The tax authorities may also request information from third parties. As a consequence of an audit tax authorities are entitled to determine the tax liability of the unpaid tax and fix the amount of additional taxes to be paid, including tax interest and penalties.

11.2. E-Auditing
The tax administration uses error indicators in the tax returns for electronic audit procedures, crossing information among the taxpayers. If differences are determined, the taxpayer is encouraged to voluntarily make the amendments/corrections applicable in a specific period of time.
12. Penalties and risks for non-compliance

12.1. Penalties
According to the Salvadoran Tax Code the following penalties would apply:

- For late registration: two monthly minimum salaries (explained below);
- For no registration: three monthly minimum salaries (explained below);
- For late payment: from 5% to 20% applicable over the tax paid late, depending on the delay period.
- In case of no payment: 50% of the tax due.

The current monthly minimum salary in El Salvador is roughly USD 208. This amount may change every fiscal year.

12.2. Interest on late payments
The current annual interest rate for late payments is the following:

- Less than 60 days: 5.60%
- More than 60 days: 9.60%

12.3. Joint Liability
According to the Salvadoran Tax Code, joint liability operates in the following cases:

- For legal representatives of individuals and companies including collective entities with no legal personality (parents, board of directors);
- Local contractors of cultural and/or sport performances taking place in the country;
- For new owners of companies;
- Transactions subject to VAT made on behalf of a third party.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The statute of limitations is three years from the date on which the VAT return was filed, and five years if tax returns have not been filed.

13.2. Recovery of VAT by the taxable person
Taxpayers may recover VAT balances during a two year period from the date on which the tax return and payment was due.

14. Rulings and Decisions

14.1. Rulings
Taxpayers may request binding tax rulings from the tax authorities on the application of the VAT law to specific transactions.

14.2. Decisions
Following a written notification of any tax determination, which may include assessment of additional taxes or penalties, the taxpayer may appeal before the Appeal Court of Internal Taxes and Customs (“Tribunal de Apelaciones de los Impuestos Internos y de Aduanas”), within a period of 15 working days after such notification. This Appeals Court is a part of the Ministry of Treasury, but with respect to its functions, it operates independently of the Tax Authorities. In any case, the Appeals Court must issue its final resolution within a period of 9 months after the petition is filed.

Taxpayers may lodge an appeal against an adverse Appeal Court decision to the Supreme Court of Justice. Taxpayers have 60 calendar days after notification of the Appeals Court decision, to file an appeal before the Administrative Chamber of the Supreme Court.
The last recourse in case of any constitutional violation would be the Constitutional Chamber of the Supreme Court.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The tax authorities created the Transfer Pricing Unit, with the aim to track “tax avoidance” schemes and to fight tax, including VAT, fraud.

16. Other Rules

16.1. VAT withholding regimes
VAT must be withheld when a Salvadoran resident receives services from a non-resident in the country. The withholding of the tax must be made by the Salvadoran company at the moment of collecting the consideration and then paid to the tax authorities together with the corresponding monthly tax return.

In addition, companies having the status of Large Taxpayers (“Grandes Contribuyentes”) will act as withholding agents when acquiring goods or receiving services from other taxpayers not having this status. The withholding rate applicable in this case would be 1% of the transaction price.

Large taxpayers importing beverages, tobacco and other specific products, must also withhold 1% of VAT on supplies of such products to other taxpayers not having this status. 16.2. Other regimes VAT advance payments at a rate of 2% of the transaction price, must be declared and paid by VAT registered taxpayers receiving payments through credit cards. For this purpose, the issuers/administrators of the credit cards will act as withholding agents.
**El Salvador**

**Useful contacts**

**Andrea Paniagua**
Partner TLS  
Tel.: +(809) 567 7741  
E-mail: andrea.paniagua@do.pwc.com

**Mauricio Orellana**
Senior  
PwC El Salvador  
Centro Profesional Presidente  
Avenida La Revolución y Calle Circunvalación  
Colonia San Benito  
San Salvador, El Salvador  
Tel.: +(503) 2248-8660  
E-mail: mauricio.orellana@sv.pwc.com

**Ericka Elías**
Consultant  
PwC El Salvador  
Centro Profesional Presidente  
Avenida La Revolución y Calle Circunvalación  
Colonia San Benito  
San Salvador, El Salvador  
Tel.: +(503) 2248-8694  
E-mail: ericka.elias@sv.pwc.com
Guatemala

1. Scope

The following activities are subject to VAT:

- The sale or exchanges of movable goods or its rights;
- Supplies of services;
- Importations;
- Rental of movable and immovable property;
- The assignment of movables or real estate by way of payment, except when made to distribute inherited real estate or when an undivided property is terminated;
- The withdrawal of movable property by taxpayers or owners, partners, directors or employees of a company for their own or their family’s personal use, or the self-supply of services, regardless of the nature of the company.
- The destruction, loss or any other fact implying inventory shortages, except for perishable goods, fortuitous events, force majeure or crimes against the patrimony;
- The sale or exchanges of immovable property;
- Inheritance of movable or immovable property; and
- Contribution of chattel to companies.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law.

The following shall also be subject to the tax:

- Importers (whether, recurring or not);
- The recipient of the goods or services, when the supplier is not established in Guatemala;
- Civil, mercantile, irregular and de facto business association concerns, and joint-properties, except for common property inheritances.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Guatemala.

3. Place of supply

3.1. Goods

In the case of goods dispatched or transported, the place of supply is deemed to be the place where the transport begins. In the case of goods not dispatched or transported, the supply takes place where the goods are when the supply takes place.

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1 VAT is only applicable on the first sale of real state; the subsequent sales are taxed with stamp tax at a 3% rate.
Supply of goods is defined as any act or contract whereby full or partial title over movables and real estate located in the national territory, or rights thereon are conveyed for a consideration, irrespective of the designation provided them by the parties there under and the place where the respective act or contract are executed.

3.2. Services
VAT will only be applied on services rendered within Guatemala.

Service is defined as any action taken or work done by an individual for another for a fee, interest, premium, commission or any form of remuneration provided no dependence relationship exists between the parties.

4. Chargeable event, chargeability of tax

4.1. Goods and services
The general rule is that a VAT chargeable event occurs when the consideration for a supply is paid (whether totally or partially), including deposits, payments in advance or any other delivery that may be construed as payment for the supplier or when the invoice is issued.

4.2. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of imported of services and intangible goods, the chargeable event occurs when the VAT is effectively paid.

5. Taxable Amount

5.1. General Rule
The taxable amount for VAT purposes is the gross price paid for the transaction.

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate corresponding to the date in which the supply took place.

5.3. Rounding Rules
There are no rounding rules for reporting tax. However, in practice, formats do not allow to report decimal positions.

6. Rates

6.1. Standard Rate
The standard rate is 12%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT

7.1.1. General exemptions
According to local legislation, the following shall be VAT exempt:

• The imports of tangible goods made by:
  • Cooperatives, federations and cooperative confederations, legally established and registered, on the import of machinery, equipment and other capital goods directly and exclusively related to the cooperatives’, federations’ or confederations’ activity or service;
  • Individuals or entities protected by a temporary import regime;
• Passengers entering movable goods into the country as part of their baggage, for which they are not required to pay any import duty under Customs laws;

• Guatemalan diplomatic and consular officers and employees returning to the country upon completion of their mission with respect to household and personal items and a vehicle;

• Diplomatic and consular missions accredited before the Government of Guatemala as well as the individuals referred to by the Vienna Convention on Diplomatic and Consular Relations, provided that the countries represented by such missions and persons provide an reciprocity to Guatemalan missions;

• International entities as provided by the respective agreements signed by them and the Government of Guatemala;

• Exports of goods and services *

• Transfer of personal tangible property and other properties in the following cases:
  • Mergers;
  • Inheritances, legacies and donations due to death;
  • Contribution of chattel to companies;
  • Contribution of property to companies (This contribution shall not be exempt whenever the contributed property has previously been contributed as a whole or in part to an outfit whose business is to develop real estate.);

• Services provided by entities subject to surveillance by the Superintendent of Banks and exchange bureaus authorized to operate in the country. With respect to insurance and bonding activities, the exemption does apply only to reinsurance and rebonding transactions;

• The cooperatives shall not charge VAT on supplies made to their members, cooperatives, federations, service centers and cooperative confederations;

• The tax shall be charged on transactions with third parties. Any VAT paid by cooperatives to their suppliers shall qualify as a tax credit for the former.

• Services supplied by saving and loan cooperatives to both their members and third parties shall be exempt from VAT;

• The creation, issuance, circulation and transfer of credit instruments, securities and stocks of any type, except exchange invoices, whenever their issuance, acceptances or negotiation related to taxable transactions;

• Interest on credit instruments and other obligations issued by mercantile concerns and negotiated through exchange bureaus duly authorized and registered;

• Organization of trust funds and the refund of the assets in trust to the trustor the taxable transactions undertaken by the trustee shall be subject to VAT;

• Contributions and donations given to legally and duly registered organized not-for-profit associations, foundations and educational, cultural, social or service assistance, and religious institutions;

• Enrollment fees and periodical dues paid to social, guild, cultural, scientific, educational, and sport associations or institutions, as well as professional associations and political parties;

• Retail supply of meats, fish, seafood, fresh fruits and vegetables, cereals, legumes and basic grains to ultimate consumers in village and municipal markets, provided such supplies do not exceed GTQ.100.00 per transaction (roughly USD 12);

• Sale of housing units with a maximum 80 square meters construction whose value does not exceed (GTQ 250,000/ US$ 31,250) and for urbanized land lots, which include basic services, with a maximum 120 square meters area, under certain conditions, whose value does not exceed (GTQ 120,000/ US$ 15,000).

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* Exportation of services is defined as services supplied in the country, subsequent to fulfilling the relevant legal procedures, to recipients not established in Guatemala for their exclusive use and enjoyment abroad.
• Services provided by legally authorized not-for-profit associations, foundations and educational, cultural, social or service assistance, and religious institutions that in no event distribute profits among their associates and members.

7.1.2. Specific tax exemptions
The following shall not charge VAT:

• Public and private educational centers with respect to enrollment fees, dues, exam fees and land transportation provided to their students, whenever this service is not furnished by third parties;
• Universities legally authorized to operate in the country;
• The Autonomous Sports Confederation (“Confederación Deportiva Autónoma”) of Guatemala and the Guatemalan Olympics Committee;
• The Guatemalan Social Security Institute;
• Diplomatic and consular missions accredited before the Government of the Republic of Guatemala as well as the diplomatic agents, officers and employees;
• International entities which, as provided by the respective agreements signed by them and the Government of Guatemala, have been extended tax exemptions.

8. Deductions

8.1. VAT recovery
Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met.

As of February 25 2012, VAT generated by the invoices issued from tax payers registered as “small” tax payers by Tax Authorities does not generate VAT credit.

For tax effect purposes, the base for computing tax debits shall be the merchandise or services selling price, net of any discounts provided.

In the event a taxpayer bills average selling prices below purchase or manufacturing costs, within a three-month period, SAT may determine the relevant tax debits base by considering the selling prices of the same products charged in other taxpayer or taxpayers’ transactions within the same period, except when the taxpayer does justify and demonstrate the reasons behind this situation and provides bank and financial data proving its actual income.

As for public spectacles, theater and similar ones, taxpayers shall issue the corresponding invoice where the tickets price is not lower than the spectacle cost to the public, as the event’s seats price may be.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to be established in Guatemala for VAT and commercial purposes.

However, it is necessary to establish in Guatemala when performing specific activities for an undetermined amount of time.

9.2. Registration for taxable persons not established in the country
Only individuals established in the country can register before the tax authorities. Companies cannot register unless they are incorporated in Guatemala.

The registration takes place when obtaining an Administrative Tax Identification Number. Permanent establishment rules were introduced as of January 1, 2013.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.
9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is liable to charge and account for the VAT on its transactions, except for the import of services or intangible goods, in which case VAT is self-assessed by the local recipients.

Withholding agents are also obliged to account for withheld taxes in their records and must file a return and make payments on a monthly basis (Please refer to the “VAT withholding regimes” section of this chapter).

10.2. Registration
Resident businesses should obtain a tax ID number, which is used for all tax purposes (including VAT).

10.3. VAT Identification Number
The Tax ID Number ("NIT" in Spanish) is used for all tax purposes (including VAT). This tax ID number consists of a number of digits which identify the company or individual person and a control digit. Example: 999999-9.

10.4. Tax authority
The Tax Administration Office (“Superintendencia de Administración Tributaria” - SAT) is responsible for the administration of all taxes, including VAT.

SAT is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are raised as a consequence of an audit, SAT is entitled to issue assessments for unpaid taxes and apply the corresponding tax penalties according to the Guatemalan Tax Code.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices must contain the following information:

- Type of document: Invoice, credit note or debit note
- Number (per type of document)
- Serial number (different per each trade establishment of the taxpayer)
- Name and trade name of the supplier
- Tax ID number of the supplier
- Address of the trade establishment or office from where the document is issued
- Date of issuance
- Name of the recipient
- Tax ID number of the recipient. Where it does not have one, the legend “Consumidor Final” (Spanish for “Final Consumer”) should figure in the invoice.
- Description of the supply, and the respective values
- Any discounts and charges applied as a result of the transaction
- Total price of the transaction, including VAT
- The taxpayers subject to VAT are required to issue and deliver invoices to their customers and such shall in turn obtain the following documentation:
• Invoices for the supplies, including non-taxed transactions;
• Debit notes for any price increases or surcharges over transactions already billed;
• Credit notes for any returns, annulments or discounts over transactions already billed; and • Any other documentation, which in specific and duly justified cases, SAT requires in order to facilitate the taxpayers’ timely compliance with the tax obligations.
• Upon request, the tax authorities may allow the issuance of the invoices through mechanized or electronic systems (i.e. electronic cash registers). The use of such systems will depend on the activities of the taxpayer requesting the authorization (i.e., volume, size, value, etc).

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Invoice forms must be printed by an authorized printer or by electronic means. The tax authority should authorize both.

Outsourcing for the issuance of invoices is permitted by law. Self-billing is allowed under specific circumstances.

10.5.3. Electronic Invoicing
Electronic invoicing is allowed under specific circumstances.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the amended invoice. These documents can only be issued on the two months following the date of issuance of the regarding amended invoice.

10.7. Books and Accounting Registers/Records
Taxpayers must maintain books and accounting records of transactions.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention period
Records have to be kept for four years from the date on which the return to which they relate should have been filed.

10.8.2. Format of Archiving
The Archive can be in electronic form, but paper records are necessary in case of a file inspection by the tax authorities.

10.8.3. Place of Archiving
The books and general ledgers shall be maintained at the taxpayer’s registered address or that of their registered accountant.

10.9. Supporting documentation
Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, the tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns
Tax period in Guatemala runs from January 1st to December 31st.

Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions or not. VAT return is due before the end of the month following the tax period to which it relates. Taxpayers may file tax returns electronically, through the banks’ websites.

10.11. Due Date for payment of VAT
The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT
Local businesses can obtain a tax credit where input VAT exceeds output VAT. Refund takes place only for exporting businesses or when selling goods or services for exempts. There is no refund mechanism for non-resident businesses.
10.13. Additional Reporting (statements)
There are no additional reporting requirements.

11. Auditing

11.1. Auditing
Tax Auditing is carried out by tax field inspectors on a random basis. Taking as a point of reference the income tax paid on the revenues.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
As an indirect tax, the penalties for late payments range from 50% - 100% of non-paid tax plus interest.

12.2. Interest on late payments
Annual interest rate on late payments ranges from 12% to 15%.

12.3. Joint Liability
There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
Statute of limitations is four years from the due date, according to the Tax Code of Guatemala.

13.2. Recovery of VAT by the taxable person
Statute of limitations is four years. However it can be extended in special cases.

14. Rulings and Decisions
Tax Rulings are not regulated in Guatemala; however a tax consultation may be submitted to the tax authorities in case of doubts regarding tax payment or the application of tax regulations. Answers from the Tax Authority will only be binding to the requestor.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The tax authorities have an online system which enables them to review input and output VAT or other taxes. Where any doubt arises, a field inspection can take place.

16. Other Rules

There are special regimes that establish VAT exemptions (depending on the activities performed by a company). To qualify for this regime, the company must submit the corresponding request to the tax authorities or before the Ministry of Economy, depending on the regime.

16.1. VAT withholding regimes
VAT legislation in Guatemala provides that the following should act as VAT withholding agents:

- Exporters
- Public Sector entities
- Credit and debit cards operators
- Special taxpayers

Other taxpayers may act as withholding agents upon ex officio registration or if requested by such taxpayer.
VAT Withholding agents are liable to withhold the VAT from the suppliers of goods or services on the following cases:

- Exporters, special taxpayers and other agents on transactions equal or higher than Q2,500.00 (USD 300)
- Public Sector entities on transaction equal or higher than Q30,000.00 (USD 3,600)
- Credit and debit cards operators on any transactions of reimbursement to their affiliated establishments.
Guatemala
Useful contacts

**Edgar Mendoza**
**Tax and Legal Partner**
6 Avenida 6-38
Zona 9, Edificio Tívoli Plaza
CP 01000 Ciudad de Guatemala, Guatemala
Tel. +(502) 2420 7850
Email: edgar.mendoza@gt.pwc.com

**Rodrigo Salguero**
**Tax and Legal Supervisor**
6 Avenida 6-38
Zona 9, Edificio Tívoli Plaza
CP 01000 Ciudad de Guatemala, Guatemala
Tel. +(502) 2420 7878
Email: rodrigo.salguero@gt.pwc.com

**Roberto Ozaeta**
**Tax and Legal Manager**
6 Avenida 6-38
Zona 9, Edificio Tívoli Plaza
CP 01000 Ciudad de Guatemala, Guatemala
Tel. +(502) 2420 7878
Email: roberto.ozaeta@gt.pwc.com
1. Scope

Value Added Tax (VAT) is applied at a national level.

VAT is levied on the supplies of goods and on the supplies of non-personal services performed in Honduras.

All transactions carried out within a Free Zone, including supplies of goods, imports, and supplies of services are exempt from VAT.

Visitors and foreign tourists in Bay Islands are exempt from VAT and consumption selective taxes in all purchase and sales of merchandise and goods which are introduce tax free to the Touristic Free Zone.

2. Taxable Persons

2.1. Definition

Taxable persons are those individuals or entities that perform any of the activities that are within the scope of the VAT law.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Honduras.

3. Place of supply

3.1. Goods

The place of supply is deemed to be Honduras where the goods are located in the territory of Honduras or where the supply is performed by a Honduran resident.

3.2. Services

The place of supply is deemed to be Honduras where the service is partially or totally carried out within the territory of Honduras, regardless of the country of residence of the supplier and recipient of the service.

4. Chargeable event, chargeability of tax

4.1. Goods

For supply of goods, the VAT chargeable event occurs on the date the invoice or a similar document is issued. If an invoice is unavailable or lost, the VAT chargeable event occurs on the date the goods are delivered.

For the supply or consumption of used merchandise for the taxpayer's own use or that becomes part of the of the company's assets, the VAT chargeable event occurs on the date of the withdrawal from inventory.

4.2. Services

The VAT chargeable event in the case of supply of services occurs on the date an invoice or a similar document is issued. If payment is remitted in advance, then the VAT chargeable event occurs on the date of payment or when the service is supplied, whichever occurs earlier.

4.3. Imports

The VAT chargeable event in the case of imports occurs at the moment the corresponding import declaration is filed or when the imports are paid for, whichever occurs earlier.
5. Taxable Amount

5.1. General Rule
As a general rule, the taxable amount is the value of the goods and/or services.

The taxable amount for supplies of goods includes the sales price less any direct ordinary or extraordinary finance expenses, discounts provided under regular commercial practices, insurance, shipping commissions and warranties.

The taxable amount for supplies of services includes the price of the service, less any discounts provided under regular commercial practices, and financial charges and the cost of products used to supply the services.

The taxable amount for imports is equal to the sum of the cost, insurance and freight (CIF), the value-added duty, and customs fees.

5.2. Exchange Rate Rules
If the taxable amount is expressed in foreign currency, it should be converted into the local currency by applying the exchange rate published by the Honduran Central Bank on the date in which the supply took place.

5.3. Rounding Rules
When the calculation of the payable VAT happens to be a fraction less than 0.005 of a Lempira, the amount has to be lower to the nearest whole cent amount. If the result is greater than 0.005 lempira, then the amount has to be rounded up to the next whole cent amount.

6. Rates

6.1. Standard Rate
The standard rate for the supply of goods, services and imports is 12%.

6.2. Increased Rate
• The import and supply of alcoholic beverages and tobacco products are subject to a 15% tax rate.
• Post pay mobile telecommunication with consumption over US$40.01 are subject to a 15% VAT.
• Data services over 1.024 Mbps are subject of a 15% VAT.
• Cable television services with a monthly consumption over L.500.01 are subject to a 15% VAT
• Business class air tickets are subject to a 18% VAT.

6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
There are no exemptions with no right to deduct input VAT in Honduras, except for the producers of exempted goods who have no right for VAT credit.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Exempt activities (e.g. Free Zone Regimes, Export activities) are taxed at 0% rate and taxpayers have the right to deduct input VAT for the tax paid on supplies and services incorporated or used in the production of exported goods.

The following is a list of supplies that are VAT exempt for all industries (please note that this is not an exhaustive list):

• Pharmaceuticals used for human use;
• Machinery and equipment used to generate energy;
• Books, journals, newspapers, technical and cultural scientific magazines, notebooks and school materials, paintings and artistic sculptures;
• The following services: electrical energy, potable water, professional fees, teaching, hospitalization and ambulance transportation, laboratories and other medical diagnostic laboratory services, land transportation of passengers, bank and financial services;
• Agricultural equipment; and
• Veterinary products.

8. Deductions

8.1. VAT recovery
Input VAT incurred by a person liable for VAT can be offset against output VAT as a credit, provided that it is attributable to taxable transactions. The amount of VAT payable to the tax authority of Honduras (Dirección Ejecutiva de Ingresos or “D.E.I.”) is the difference between the debits and credits for the tax period (generally one month).

Any tax credits at the end of the period may be carried forward to the following tax period.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT if they carry out VAT activities in Honduras through a branch.

9.2. Registration for taxable persons not established in the country
Honduran legislation does not provide a registration mechanism for non-established taxable persons.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons liable to account for VAT
The supplier of goods or services is required to charge and account for VAT. For imports, however, VAT is assessed and charged by the local customs authority.

Withholding agents are required to account for withheld taxes in their records. They are also required to file a return and make payments on a monthly basis.

10.2. Registration
All taxpayers that act as withholding agents should be registered before the tax authorities. Resident businesses should obtain a tax ID number, which is valid for all national tax purposes (including VAT).

The following procedure is used to obtain a Tax ID number in Honduras:

• Fill out a preformatted form and attach any required documentation (e.g., act of incorporation, power of attorney, among others) which is submitted to the local tax authority.
• If approved, the Tax ID number is generally obtained on the same date.
10.3. VAT Identification Number
The Tax ID number (Registro Tributario Nacional or “R.T.N.”) is used for all national tax purposes including VAT. This Tax ID number is permanent, unique and exclusive to each taxpayer.

The Tax ID number format in the case of business entities consists of 14 digits, where the first two digits correspond to the department where the company is located; the following two digits correspond to the municipality where the company is located; the following three digits (i.e., 900) determines that it is a business entity; the following digit corresponds to the year; the following five digits are the commercial registration number of the company; and the last digit is determined by the tax authority.

10.4. Tax authority
The tax authority responsible for the administration of VAT is the Executive Directorship of Revenue (Dirección Ejecutiva de Ingresos or “D.E.I.”).

DEI may perform audits to ensure tax compliance by reviewing the taxable persons’ accounting records and tax returns. If assessments are issued as a consequence of an audit, DEI may require payment of unpaid taxes and apply corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the Tax Invoices Printing Regulations.

Invoices may be issued in local currency or any other currency. However, accounting registers must only be recorded in local currency by applying the corresponding exchange rates rules.

Invoices must contain at least the following information:

Printed information:

• Identification information of the Taxpayer or Responsible:
  • Full name or company’s legal name, whichever applies;
  • Address of the tax domicile and of the location of the company. All of the company’s addresses may be recorded in the invoice.
  • Document name: Invoice;
  • Numbering: series and correlative number;

• Information of the Printing Company:
  • Full name or company’s legal name, whichever applies;
  • Tax Identification Number (Registro Tributario Nacional, RTN).
  • Printing date;
  • Printing authorization Code (Código de Autorización de Impresión, CAI), issued by the Tax Office;

• Destination of the original and copies:
  • Original: Buyer or user;
  • Copies: Taxpayer or Responsible.

Information to be filled out by Taxpayer or Responsible:

• Full name or company’s legal name of the buyer, whichever applies;
• Fiscal Registry Number (Registro Tributario Nacional, RTN) of the buyer;
• Description of the sold goods or type of service rendered;
• Quantity of units sold;
• Unitary price and the amount of sale of the sold goods or rendered services;
• Amount of the applicable tax;
• Total amount of the transaction; and
• Place and date of issuance.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Invoice forms must be printed by an authorized printer or by the taxpayer through a computer system. For both of these procedures, the tax authority has to authorize the issuance of the tax documents by a computer system or any other similar mean, with the proper registration.

Furthermore, outsourcing and self-billing are not common in Honduras.

10.5.3. Electronic Invoicing
There are no specific provisions for electronic invoicing in Honduras.

10.6. Credit notes and debit notes
Taxpayers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt according to the Tax Invoices Printing Regulations.

10.7. Books and Accounting Registers/Records
Taxpayers should maintain and retain for a period of five years in its Honduran tax domicile the accounting books and all related books and special registers, supporting documents, or, programs, sub-programs and other electronic or computerized systems.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Books, registers, records and invoices must be kept for five years from the end of the tax period to which they relate.

10.8.2. Format of Archiving
Books, registers, records and invoices must be kept in a physical storage and may be stored electronically.

10.8.3. Place of Archiving
All physical books and records must be kept in taxpayer’s Honduran offices for the aforementioned statutory period. The taxpayer, however, can maintain back up books and records abroad.

10.9. Supporting documentation
Persons liable for VAT are required to retain all necessary information to support the nature and truthfulness of their transactions for a period of five years. Otherwise, additional assessments may be issued during tax audits by the tax authorities.

10.10. Tax period and VAT returns
Persons subject to VAT must file monthly returns, regardless of whether they engage in taxable transactions. The VAT return is due on by the 10th calendar day of the month following the tax period to which it relates.

VAT returns are prepared through an electronic system called DET (acronym in Spanish for “Declaración Electrónica Tributaria”); however, a hard copy must be filed before an authorized bank or the Tax Authority.

10.11. Due Date for payment of VAT
The VAT due should also be paid before the 10th calendar day of the following month corresponding to the monthly VAT period.

10.12. Refunds of VAT
Taxpayers have the right to claim a tax credit where input VAT exceeds output VAT at the end of each month. Taxpayers also have the right to claim a tax refund after 60 working days. Any remaining tax credits at the end of the period may be carried forward to the next period.

Credit card companies must return credit and debit cardholders 8% of the total VAT calculated for every purchase done through a credit or debit card.
There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
There are no additional reporting requirements.

11. Auditing

11.1. Auditing
Taxpayers must provide access to the duly accredited Tax Authority representatives to audit and verify accounting books and registers in the taxpayer’s business and to provide the proper supporting documentation.

11.2. E-Auditing
The tax authorities in Honduras do not currently conduct e-audits and there are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
The penalty for failure to file a VAT tax return is equal to 1% of the corresponding tax, if the return is filed within five working days after the deadline; after this period, the penalty is 2% for each month overdue.

The penalty for not keeping the required books, registers, records and invoices is an amount equal to four minimum wages. At present time this amounts to approximately USD 1,296.00.

There is no specific penalty for not being registered before the tax authorities and obtaining a Tax Identification Number. However, failure to register would result in an incomplete VAT filing, which would be subject to the corresponding penalty.

12.2. Interest on late payments
In case of lack of or partial payment of the withheld VAT, taxpayers should pay the amount due plus a monthly 5% surcharge up to a ceiling of 60% of the total amount of tax due.

12.3. Joint Liability
There are no specific provisions on joint liability in the Honduran legislation.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The statute of limitations for the recovery of VAT by the tax authorities is five years beginning from the date of the filing of the tax return.

13.2. Recovery of VAT by the taxable person
The statute of limitations for the recovery of VAT by the taxable person is five years.

14. Rulings and Decisions
Taxpayers may request an opinion from the tax authorities with regard to any tax matter. The period of time for a response may vary from two to four weeks depending on the complexity. However, legal opinions of the tax authorities are not conclusive and are left subject to further review and verification.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The Honduran legislation recognizes tax fraud as a felony; related penalties are established by the Penal Code.
16. Other Rules

16.1. VAT withholding regimes
Companies considered by the DEI as Major Tax Payers, should withhold VAT from their suppliers of the following services:

a. Freight services.

b. Fumigation and cleaning services

c. Printing and silk-screen printing services

d. Security services.

e. Rental of commercial real estate, machinery and equipment.

Credit card companies and airline companies are VAT withholding agents and are required to withhold VAT on the supply of goods and services by the businesses affiliated to them when payment has been received through credit cards. Credit card companies reimburse the affiliated businesses only the net amount of the transaction excluding VAT, and pay the corresponding VAT due directly to the Tax Authority.
Honduras
Useful contacts

Ramón E. Morales
Partner
Entrada Principal Col. Orquidea Blanca
14 avenida Circunvalación Noroeste
10 calle, Apdo. Postal No. 563
San Pedro Sula, Honduras
Tel.: +(504) 2553 3060 or +(504) 2553 1014
Email: ramon.morales@hn.pwc.com

Milton Gabriel Rivera Urquía
Manager
Entrada Principal Col. Orquidea Blanca
14 avenida Circunvalación Noroeste
10 calle, Apdo. Postal No. 563
San Pedro Sula, Honduras
Tel.: + (504) 553 3060 or + (504) 2553 1014 ext 2102
Email: milton.rivera@hn.pwc.com

Edward David Guevara
Consultant
Entrada Principal Col. Orquidea Blanca
14 avenida Circunvalación Noroeste
10 calle, Apdo. Postal No. 563
San Pedro Sula, Honduras
Tel.: + (504) 2553 3060 or + (504) 2553 1014 ext 2118
Email: edward.guevara@hn.pwc.com
Mexico

1. Scope

VAT was introduced on 1 January 1980 and applies on a federal level.

The following transactions are subject to VAT when performed within Mexican territory:

- Supplies of goods;
- Supplies of services;
- Temporary supplies of tangible goods (leasing). Please note that, different from other VAT systems, leasing is considered a separate taxable activity with specific rules;
- Importations of goods and services. This includes not only the introduction of goods into the country, but also the following activities:
  - The acquisition of intangible goods by Mexican residents supplied by non-Mexican residents;
  - The temporary use or enjoyment, in Mexican territory, of intangible goods supplied by non-Mexican residents;
  - The temporary use or enjoyment, in Mexican territory, of tangible goods that have been physically delivered from abroad into Mexico;
  - The use and enjoyment in Mexican territory of services, when supplied by non-Mexican residents, except for international transport.

2. Taxable Persons

2.1. Definition
Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the VAT law.

2.2. VAT Grouping (VAT consolidation regime)
There are no VAT Grouping provisions in Mexico.

3. Place of supply

3.1. Goods
In the case of goods dispatched or transported, the place of supply is deemed to be the place where the dispatch or transport begins. In the case of goods not dispatched or transported, the supply takes place where the goods are when the supply takes place.

Any supply of goods outside of Mexico is not subject to Mexican VAT. However, the supply of goods subject to registration in Mexico (i.e. aircrafts, ships, etc.) by Mexican residents or establishments of foreign residents is subject to VAT, even if the goods are located abroad.

In the case of intangible goods, the place of supply is deemed to be in Mexico when both the supplier and the acquirer are Mexican residents.

The place of supply of temporary supply of goods is where the goods are physically delivered.

3.2. Services
The place of supply of services is Mexico when the services are physically carried out within Mexican territory by a Mexican resident.

Supply of intangible goods or services by non-residents may be deemed to be importations and therefore taxable in Mexico by the recipient (through self-assessment).
4. Chargeable event, chargeability of tax

4.1. Goods and services
Mexican VAT is based on a cash flow system; therefore as a general rule, the chargeable event occurs when the consideration for a supply is paid (totally or partially), including deposits, payments in advance or any other delivery that may be construed as payment for the supplier. There are some exceptions to these rules, such as interest and securities.

4.2. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration. In the case of importation of services and intangible goods, the chargeable event occurs when the consideration is effectively paid.

5. Taxable Amount

5.1. General Rule
As general rule, the taxable amount is the price or consideration paid for the transaction, increased with other charges made to the recipient of the goods or services.

In case of importation of taxable goods, the taxable amount is the customs value of the imported goods plus the import duties, and any other contributions paid for the importation (e.g. countervailing quotas and customs processing fees).

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published in the official gazette corresponding to the date on which the taxable event took place.

5.3. Rounding Rules
Taxes, including VAT should be calculated using all decimal positions. However the amount to be paid should be rounded up (from 51 to 99 cents) or down (from 1 to 50 cents) to the nearest whole peso.

6. Rates

6.1. Standard Rate
The standard rate is 16%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
An 11% rate applies where taxable activities are performed within the Border Region by residents in such region.

The Border Region is the border zone of 20 kilometers parallel to the international borders of the north and south of the country, the States of Baja California, Baja California Sur and Quintana Roo, as well as the Cananea and Caborca districts in the State of Sonora and a specific area also in the State of Sonora.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following supplies are exempt from VAT:

- land;
- immovable property for residence purposes;
- used movable goods, except when supplied by companies;
- tickets or other proofs of payment to participate in raffles, gambling games and other contests;
- currency;
• other negotiable instruments;
• between foreign residents and by a foreign resident to an entity participating in an import duty deferral program, under certain conditions;
• gold ingots;
• insurance of agricultural and similar risks as well as life insurance and the related commissions of agents and reinsurance;
• commissions, in certain cases;
• international maritime transportation supplied by non-residents;
• education services;
• interests, collected or paid by financial institutions;
• public ground transportation (except for train transportation);
• interests and certain charges related to mortgage credits;
• health services supplied by individuals or government institutions;
• books, newspapers and magazines, as well as the rights to use them when sold by their author;

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
The supply of non-industrialized animals and vegetables, medicines, fertilizers, gold and books (when not supplied by their author), among others, is zero-rated.

Export of goods and services is also exempt (zero-rated). The following are deemed exportations:

• permanent exportation, as defined by the customs legislation;
• supply of intangible goods by a resident to a non-resident;
• the temporary use or enjoyment, abroad, of intangible goods supplied by residents in Mexico;
• the use and enjoyment abroad of services supplied by residents in Mexico, for the purpose of:
  • technical assistance, technical services related to such assistance and information relating to industrial, commercial or scientific experiences;
  • “Maquila” and “submaquila” operations for export as defined by the customs legislation;
• advertising;
• commissions and mediation;
• insurance and reinsurance, as well as bonding and rebonding;
• financing operations;
• filming;
• international transportation of goods supplied by residents and related services, provided that they are supplied in operations for the export of goods;
• hotel services rendered to foreign tourist participating in a congress, convention trade show or similar events;
• call-center services;
• services supplied by individuals or partnerships.

8. Deductions

8.1. VAT recovery
Input VAT incurred by taxable persons (including that incurred prior to commencement of taxable activities) can be offset against output VAT as a credit, provided that it is attributable to taxable transactions, has been
effectively paid to the supplier (or self-assessed, as applicable) and corresponds to purchases that qualify as deductible cost or expense for income tax purposes.

When it is not possible to identify whether input VAT relates to transactions within the scope of VAT or exempt transactions, such input VAT will be recoverable using a pro-rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT if they have a permanent establishment in Mexico (as defined by the Mexican Income Tax Law) or if they carry out VAT activities in Mexico.

9.2. Registration for taxable person not established in the country
Mexican legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
The following persons are jointly liable with the taxable person:

- Recipients of goods or services when obliged to withhold VAT from the supplier,
- Legal Representatives of foreign residents performing taxable activities in Mexico,
- General Manager (or equivalent), partners and shareholders of the taxpayer, in certain cases.
- Any person declaring his/her will to assume joint liability.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is the person liable to charge and account for VAT on its transactions, except for the case of importation of services or intangible goods, where VAT is self-assessed by the Mexican recipient.

Where recipients of goods or services are obliged to withhold VAT from the supplier (see “Other Rules” section), are also obliged to account for withheld taxes in their records, and they must file a return and make payments on a monthly basis.

10.2. Registration
Entities and individuals performing taxable activities in Mexico should obtain a tax ID number (Registro Federal de Contribuyentes or “R.F.C.”), which is used for all Federal tax purposes (including VAT).

There are no VAT registration thresholds.

10.3. VAT Identification Number
The Tax ID Number is used for all Federal taxes purposes (including VAT).

The Tax ID Number format in the case of entities is XXX 999999 X99. This consists of 12 digits, where the first three digits are letters extracted from the name of the entity; the following 6 digits are the date on which the company began its operations (yy/mm/dd) and the last 3 digits are alphanumeric and determined by the authority.
10.4. Tax authority
The Tax Administration Service (Servicio de Administración Tributaria “SAT”) a department of the Ministry of Finance is responsible for the administration of VAT. SAT is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons' accounting records and tax returns. If assessments are raised as a consequence of an audit, SAT is entitled to challenge unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices must contain at least the following information, among other requirements:

- Supplier information: Tax ID Number, tax regime;
- Invoice number and digital stamp;
- Date and place of issuance;
- Customer's tax ID number;
- Quantity, measurement unit, and description of the goods or services;
- Total amount;
- Amount of VAT and other taxes charged (specifying the amount corresponding to each different rate);
- Specify if the consideration will be paid in one single payment or in installments.

In case of a single payment, the invoice must show the total amount of the operation and the corresponding VAT.

Other requirements apply for particular transactions.

In case of installment payments, the invoice must show the amount of the installment and the VAT corresponding to such installment.

In case Mexican taxpayers wish to deduct expenses for Income Tax and/or VAT, the corresponding invoices (or similar documents) issued by non-residents are required to fulfill specific requirements.

Invoices can be either issued in local or foreign currency. However, accounting registers must only be recorded in local currency, applying the corresponding exchange rates rules.

10.5.2. Issuance of Valid Invoice - Outsourcing and self billing
Invoice must be issued by the taxpayer through electronic means.

10.5.3. Electronic Invoicing
Electronic invoices are mandatory (except for taxpayers with a turnover of less than MXP 4,000,000 per year). Paper copies should be issued upon request of the recipient of the goods or services.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended.

10.7. Books and Accounting Registers/Records
Taxable persons are required to keep records of all the information related to their VAT liability, particularly information needed for the correct assessment of VAT liability, the preparation of the tax return, and information about VAT exempt supplies or those not subject to VAT.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Records have to be kept for five years from the date on which the return to which they relate was filed or should have been filed. Specific documents, such as the act of incorporation and federal tax returns must be kept indefinitely.
10.8.2. Format of Archiving
Electronic documents authenticated with e-signature or digital stamp (e.g. e-invoices) must be archived in electronic format.

Taxpayers who submit an Annual Tax Report (“Dictamen”) are allowed to microfilm or record in electronic devices the supporting documents of their transactions. Other taxpayers can do it upon authorisation from the Tax Authorities.

10.8.3. Place of Archiving
Records must be archived within the taxpayer’s fiscal address. There are no specific provisions regarding the place of archiving for electronic files; however, they should be available within the taxpayer’s fiscal address upon the Tax Authorities’ request.

10.9. Supporting documentation
Persons liable for VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns
Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions or not. VAT returns should be filed electronically (except for some individuals). The VAT return is due by the 17th calendar day of the month following the tax period to which it relates.

10.11. Due Date for payment of VAT
The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT
Local businesses can obtain a refund where input VAT exceeds output VAT at the end of each monthly period. Regularly, VAT refunds take around 40 working days after the submission of the corresponding request; this period could be reduced in certain cases.

In the cases where there is a VAT recoverable balance determined and declared in the monthly VAT return, the taxpayer may credit such balance against future VAT returns or offset it against future payment of other taxes; or request a VAT refund.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
Taxpayers must also submit a monthly informative return, which includes information about transactions with suppliers of goods and services. This return should be filed electronically.

11. Auditing

11.1. Auditing
The Mexican VAT Authority may perform audits:

• To review the taxpayers’ records, within the Authority’s facilities;
• To audit the taxpayers’ records within the company’s facilities;
• To review accounting reports performed by certified public accountants;

In this sense, the Mexican VAT Authority may determine penalties regarding payments deemed as omitted for the last 5 years from the date on which the corresponding return was filed or should have been filed, however, such term can extend to 10 years in the following cases:

• When the taxpayer has not requested a tax registry;
• When the taxpayer has not kept its records for the last five years;
• When the taxpayer has not submitted VAT returns.

11.2. E-Auditing
There are no specific provisions on this topic.
12. Penalties and risks for non-compliance

12.1. Penalties
According to the Mexican Legislation, in case of non-compliance, the Mexican VAT Authority may sanction the taxpayer with a fine ranging from 55% to 75% of the VAT deemed as omitted or incorrectly credited.

Penalty for no or late registration ranges from USD 200 to USD 570 approximately.

12.2. Interest on late payments
In case of late payments, the taxpayer must pay the omitted VAT plus the inflation adjustments that are calculated according to the inflation rate per month, and surcharges which rate increases per month.

12.3. Joint Liability
According to the Mexican Tax Legislation, there is no joint liability in the case of penalties.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The Mexican Tax Authority may claim the payment of VAT regarding the operations performed during the last five years by the taxpayer, from the date on which the corresponding return was filed or should have been filed. Such term can be extended to 10 years in some cases.

13.2. Recovery of VAT by the taxable person
Taxpayers may recover VAT balances regarding their operations performed during the last five years, from the date on which the corresponding return was filed or should have been filed.

14. Rulings and Decisions
Taxpayers may request rulings before the Mexican Tax Authority that can support the VAT treatment applied to a specific transaction. However, such rulings are not binding.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The Mexican VAT legislation does not provide for any anti-avoidance or VAT fraud specific provisions.

16. Other Rules

16.1. VAT withholding regimes
VAT must be withheld by the taxable person recipient of the goods or services in the following circumstances:

- Credit institutions acquiring assets through giving in payment or judicial or trust adjudication.
- Entities:
  - Receiving independent personal services, or for the temporary use or enjoyment of goods supplied to them by individuals;
  - Acquiring scrap to be used as a raw material or to be sold;
  - Receiving services of ground transportation of goods;
  - Receiving services supplied by commissioners who are individuals.
- Individuals or entities acquiring, or for the temporary use or enjoyment of, tangible goods supplied to them by foreign residents without a permanent establishment in Mexico.
- Entities authorized with an IMMEX Program (inbound processing relief program for exporters) or a similar regime in the terms of the Customs legislation, or vehicle manufacturing companies for introduction thereof into fiscal warehouse upon the acquisition of goods authorized under their domestic suppliers programs.

In general terms, reverse charge mechanism (self-assessment of VAT) is applicable to the following transactions:

- Acquisition of intangible goods by a resident from a non-resident;
- The temporary use and enjoyment, within Mexican territory, of intangible goods supplied by non-residents;
• The temporary use and enjoyment, within Mexican territory, of tangible goods supplied by non-residents, physically delivered abroad; and
• The use and enjoyment within national territory of services supplied by non residents.
Mexico
Useful contacts

Iván Jaso
Partner
Mariano Escobedo No. 573
Col. Rincón del Bosque
CP 11580 México, DF
México
Tel.: +(52)(55) 5263 6000 ext. 8535
Direct: +(52)(55) 5263 8535
Email: ivan.jaso@mx.pwc.com

Javier Hernández
Partner
Mariano Escobedo No. 573
Col. Rincón del Bosque
CP 11580 México, DF
México
Tel.: +(52)(55) 5263 6000 ext. 5819
Direct: +(52)(55) 5263 5819
Email: javier.hernandez@mx.pwc.com

César Alcántara
Manager
Mariano Escobedo No. 573
Col. Rincón del Bosque
CP 11580 México, DF
México
Tel.: +(52)(55) 5263 6000 ext. 5897
Direct: +(52)(55) 5263 5897
Email: cesar.andres.alcantara@mx.pwc.com

Osvaldo Hurtado
Manager
Mariano Escobedo No. 573
Col. Rincón del Bosque
CP 11580 México, DF
México
Tel.: +(52)(55) 5263 6000 ext. 6605
Direct: +(52)(55) 5263 6605
Email: osvaldo.hurtado@mx.pwc.com
1. Scope

VAT was introduced on 1 April, 1985 under the name of Value General Tax (Impuesto General al Valor, in Spanish) and renamed later as Value Added Tax.

The following transactions are subject to VAT when performed within Nicaragua:

- Supplies of goods;
- Supplies of services;
- Importations of goods;
- Export of goods and services.

A supply of goods is any act or contract that entails the transfer of dominion or the right to dispose of a good as the proprietor, independently of the denomination assigned to the parts and of the method of payment of the agreed price.

A supply of services will be considered as any profit bearing transactions that do not consist in the transfer of dominion of movable assets.

Import, means the entry of goods from abroad for use or consumption in the national custom territory.

2. Taxable Persons

2.1. Definition

Persons liable for VAT are those individuals or entities that perform any of the activities that are within the scope of the Law No. 822-2012.

Persons liable to act as VAT withholding agents are all individuals or entities that carry out taxable transactions; government and local entities are included.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Nicaragua.

3. Place of supply

3.1. Goods

The supplies of goods located within Nicaragua are subject to VAT in Nicaragua.

3.2. Services

Supplies of services fully or partially performed in the national territory by a resident or non-resident are subject to VAT in Nicaragua.

When the services include the use or right over goods that are located in Nicaragua, the supply is completed at the moment of delivery by the supplier to purchaser.

In relation to international air transportation services, VAT will be applied when the ticket is sold in Nicaragua, including round-trips. When the trip begins in Nicaragua, even if the ticket was bought abroad VAT will still apply.

3.3. Imports

Imports are considered to take place when the goods are available for the importer within Nicaragua the customs area, or acquisitions of tangible goods in the country are transferred by persons that introduced them free of taxes through customs franchise.
3.4 Exports
Export, is considered the output from the national customs territory of domestically produced goods for use or consumption abroad, being the same treatment applicable to services provided to non-resident users.

4. Chargeable event, chargeability of tax

4.1. Goods
The supply of goods is considered to take place when:

- The invoice or the corresponding legal document is issued, even if the price has not been paid in full, or
- The transfer is consummated, even if the corresponding document has not been issued,
- or if the payment has not been made yet, as long as there is consent from the parties, or
- The product has been delivered, unless there is no obligation of receiving it or to acquire and self-supply is on behalf of the company and its employees, as it is not deductible for income tax.

4.2. Services
The supply of services will be considered to take place and there will be an obligation to pay VAT at the moment the required payment is demandable. In other cases the Tax Authorities will issue the corresponding regulations. Advanced payments received by the supplier are included as amounts taxable with VAT.

4.3. Imports
Upon importation, VAT is applicable when tangible goods are introduced and cleared for free circulation within Nicaragua. VAT will also apply when tangible goods that have been previously imported under special customs regimes, and VAT was not paid, are transferred within Nicaragua.

4.4 Exports
The VAT on the exportation of goods and services is applicable when tangible goods or services are exported from the national customs territory, to abroad.

In addition, in the case of supply of services within Nicaragua, or the use or enjoyment of property taxed, either supplied by a non-resident entity or individual or an individual resident, who are not VAT collectors, the corresponding VAT shall be self-assessed.

5. Taxable Amount

5.1. Goods
The taxable amount for VAT is the value of the transaction established in the invoice or respective document, plus all other additional amounts under any other concept. If this value is missing in the transaction, mark-up value should be applied or by default, and the assessment should be made by the tax authorities.

When the supply of a taxable good entails the supply of an exempt service, VAT will be levied on the addition of the value of the supply of the taxable good plus the value of the supply of the service.

5.2. Services
The taxable amount is the value of the consideration paid plus any additional amount included in the supply, except for tips. When the consideration paid for a taxable service also includes the indispensable supply of goods exempt of VAT, the tax will be levied on the sum of the value for the supply of goods and the service.

5.3. Imports
The taxable amount is the customs value plus any other amount due to other taxes and duties that are collected at the moment of importing the goods and other expenses declared in the corresponding customs documentation.

5.4. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the official exchange rate issued monthly by the Central Bank of Nicaragua.

5.5. Rounding Rules
There are no rounding provisions for reporting tax.
6. Rates

6.1. Standard Rate
The standard rate is 15%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
Until August 21, 2013, household energy supply ranging from 300 kwh to 1,000 kwh is subject to a 7% VAT rate.

7. Exemptions

7.1. Exemption with right to deduct input VAT
Exports are subject to a 0% rate. The Fiscal Settlement Law and its regulations establish that, the exports of services are subject to a 0% VAT rate. Decree No. 10-91 of Free Trade Zone (FTZ) Regime, recognizes the exports of services; therefore, FTZ’s should accept the application of said scheme.

7.2. Exemption with no right to deduct input VAT
The following are exempt of VAT:

1. Self-consumption of goods non-deductible for income tax purposes.

2. The sale of goods and provision of services, exempt by the law, such as:

Exempt Goods:

- Books, brochures, magazines, school and science materials, agendas and other periodic publications, like the inputs and raw material necessary for elaboration of such products;

- Medications, vaccines and human consumption serum, orthoses and prosthetics, glucose measuring equipment like stings, machinery and strips for the measuring of glucose, wheelchairs and other apparatus designed for disabled people as well as machinery, equipment and parts, inputs and raw material necessary for the elaboration of such products;

- Rice except for when packaged in any presentation lesser than or equal to fifty (50) pounds and of better quality than 80/20, beans, cane sugar (except for special sugars), edible oil except for olive, sunflower seed, corn or sesame seed oils, ground coffee except coffee with a blend higher than 80/20, tortilla (corn food), salt, soy grain;

- Corn, corn dough, corn and wheat flour, simple and traditional pastries, live yeast for exclusive use in the fabrication of simple and traditional pastries, “pinol” and “pinolillo” (crushed seeds used to make traditional beverages);

- Vegetables, dried fruit, beans, legumes and other agricultural goods (cash crops) that were not submitted to a transformation or packaging process, except flowers or floral arrangements;

- Eggs, modified (pasteurized) milk, preparations for lactating alimentation, (materialized) milks, integral and fluid milk;

- National (traditional) cheese;

- National production of toilet paper, washing soap, detergent, bath soap, tooth paste and brush, deodorant, broom, match, sanitary towels, butane gas (up to 25 pounds);

- Live or fresh animals and fish, and other non-industrialized animal products;

- The national production of some textile products.

- The local supplies of these goods carried out by companies under the free trade zone regime are subject to the payment of VAT:

- The transfer of dominion of Real Estate Property;
• National circulation coinage, lottery tickets, instantaneous lottery tickets, social participations and other securities, with the exemption of deposit certificates that incorporate the possession of goods that the law compels VAT to be paid for their transfer;

• Some oil products;

• The molasses or cow feed, poultry, aquiculture, whatever the presentation may be;

• Veterinarian products and those destined to vegetable health requirements;

• The supplies of insecticides, pesticides, herbicides, defoliants, fertilizers, compost, seeds and biotechnological products for forest and agriculture needs;

• Medical equipment;

• Used movable assets;

• The transfer of goods by companies operating under the duty free regime according to the matter’s law;

• Materials, raw material and intermediate goods that are physically incorporated in the final product that make up the consumption basket that are subject to an industrial transformation process for their elaboration according to the Regulation of the VAT Law; and

• Those goods carried about in international or Central American fairs that promote the development of the agricultural sector, in relation to the goods related directly with the activities of this sector, according to the regulation of the law and in consultation with the organizers.

Exempt Services

• Human health services;

• Insurance Premiums against agricultural risks and obligatory insurance established in Law 431, Vehicular Circulation and Transit infractions Regimen;

• Non-professional sporting events and events promoted by religious entities organizations,

• Internal, aerial, terrestrial, lake, fluvial and maritime transportation;

• Educational services carried about by entities and organizations whose principal nature is education;

• The supplies of energy and electric flow utilized for agricultural irrigation;

• Invoicing related to the distribution of energy for domestic consumption, when it is less than or equal to 300 kw/h monthly. If the consumption exceeds such amount, VAT will be paid for the total consumption;

• Drinking water supplies, except ice and bottled water;

• Interests from loans granted by financial institutions, profit or non-profit associations and civil foundations that are authorized by and subject to, the Superintendence of Banks and other financial institutions;

• Social interest residency construction contracts according to section 39 of law 428, Institute of Urban and Rural Housing;

• Real estate rental destined for residential use, but the furniture within the rental residence is not exempt; and

• Rental of lands, machinery, or equipment for agriculture, forest or aquiculture use.

• Imported goods whose supply within the country is not subject to VAT and will not be subject to tax, except for used goods.

8. Deductions

8.1. VAT recovery

Input VAT incurred by a person liable for tax can be offset against output VAT as a credit, provided that it is attributable to taxable transactions and some additional requirements are met. Input VAT generated at a start-up stage can also be recovered.

Input VAT must correspond to purchases that qualify as deductible cost or expense for income tax purposes.
Where input VAT relates to transactions exempt from VAT, tax recovery or credit should not apply, and VAT must be considered as a cost or expense. If these transactions relate to generating income that is both VAT exempt, and taxable, a pro-rata calculation to determine the tax credit must be applied (proportionality).

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
In principle, section 10 of the Commercial Code establishes that all non-resident entities or individuals that would like to carry out businesses within Nicaragua must be registered before the Commercial Registry, and then before the Tax Authorities as taxpayer and VAT withholding agent.

9.2. Registration for taxable persons not established in the country
Please refer to VAT Liabilities section above.

9.3. Application Procedure
The process to obtain a Taxpayer registry number (RUC) is the following:

• Enter into Act of Incorporation for legal entity before notary and register it before the Public Commercial Registry;
• Fill the RUC form provided by tax authorities, accompanied with the act of incorporation registered in the public commercial registry, power of attorney of the legal representative, amongst others;
• Normally the tax authorities should review the supporting documentation between one or two weeks from the date it is requested;
• The registration and Tax ID number are obtained, upon approval, on the same date of the mentioned requesting letter.

9.4. VAT Registration: Simplification
There are no simplification provisions for VAT Registration in Nicaragua.

9.5. Alternative procedures for non established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier of goods and services is the person that is liable to charge and account for the VAT on its transactions.

Witholding agents are also obliged to account for withheld taxes in their records and they must file a return and make payments on a monthly basis.

10.2. Registration
Legal entities and individuals that carry out activities subject to VAT must register as VAT withholding agents before the Income Administration or offices authorized by DGI, who issue a certificate of responsible VAT withholder, whether it be 0% or 15% rate, or both.

There are no VAT registration thresholds.

10.3. VAT Identification Number
The Tax ID Number (Registro Único de Contribuyentes or “RUC”, in Spanish) is used for all tax purposes (national and local). The Tax ID Number format in the case of entities is 999999XXXX.
10.4. Tax authority
The Tax Authorities (Dirección General de Ingresos “DGI”, in Spanish) is responsible for the administration of all national taxes, including VAT.

10.5. Invoicing

10.5.1. Valid Invoice
Taxpayers are required to issue invoices or documents that prove the value of the taxable transaction carried out, including the transferred VAT, in the form and with the requisites established by law.

Invoices must be issued in printing forms authorized by DGI complying with the following requirements:

• Be issued in numerical order, providing the original copy to the customer;
• Be issued in the same order of the successive numeration according to the receipt book in use;
• It should include the following data:
  • Date of the transaction;
  • Name, address, telephone number and Tax ID Number of the supplier;
  • Quantity and type of goods or services supplied;
  • The unit price;
  • The total value of the supply or service that does not include the VAT fee is expressed as a discount;
  • The reason for the tax discount corresponding to the exemption is detailed and identified.

When an invoice is cancelled, the VAT withholding agent must keep the original and duplicates, showing the legend “cancelled” in each one of them.

Persons liable for tax can be authorized to issue receipts, tickets or similar documentation by using registered machines.

Such receipts must include the following information:

• Date of the transaction;
• Name, address, telephone number and Tax ID Number of the supplier;
• Receipts must contain the total of the daily sales and be filed in successive order;
• The register machines or computers must obtain or register only one sales total during the day, and if for some reason one receipt shows more than one sales total for a given day, this operation should be backed-up with other supporting evidence to be duly justified;
• That in the case that the operation of immediate devolutions is already registered in the receipt, the original and its copies should be conserved for their proper justification, reflecting in each the word, “annulled”.

When the documents are registered documents or another class of document, it must be shown that the VAT has been expressly transferred to the purchaser, separately of the operation value.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
There are no specific provisions on this topic.

10.5.3. Electronic Invoicing
Authorization can be requested to use electronic means to issue invoices to support transactions that are subject to tax. Other type of technologies can also be used.

10.6. Credit notes and debit notes
Only suppliers are is entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/ receipt that will be amended.

Any adjustments to VAT will have effect in the period in which the credit or debit note is issued.
10.7. Books and Accounting Registers/Records
The statute of limitations is established by the Tax Code for all taxes managed by the taxing authority at four years, and for Municipal taxation is two years.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
The invoices, receipts and the rest of the documentation must be kept for a four year period.

10.8.2. Place of archiving
There are no specific provisions for the place of archiving but books and accounting registers are normally kept at the taxpayers address.

10.8.3. Format of Archiving
Electronic device registers in principle, are not permitted. Paper copies are still necessary (under the Banking legislation, banks are authorized to keep electronic registers).

10.9. Supporting documentation
Please see invoicing section.

10.10. Tax period and VAT returns
Taxpayers subject to VAT must file monthly returns, whether the taxpayer performs taxable transactions or not. VAT returns can be filed electronically through the Tax Authority’s website.

The VAT return is due by the 15th day of the month following the end of the tax period to which it relates.

10.11. Due Date for payment of VAT
The VAT due should be paid on the filing deadline.

10.12. Refunds of VAT
When input VAT exceeds output VAT at the end of each monthly period, taxpayers may credit such balance against future VAT returns.

In the following scenarios VAT may be offset or refunded:

1. The transfer of goods subject to a 0% rate.
2. The transfer of goods or provision of services to exempt persons.
3. Withholding agents to which the government pays VAT through tax certificates There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
There are no specific provisions on this topic.

11. Auditing

11.1. Auditing
The tax authorities are entitled to perform audits to ensure tax compliance. This is done by reviewing the taxpayers’ accounting records and tax returns. If assessments are issued as a consequence of an audit, the Tax Authority is entitled to challenge unpaid taxes and apply the corresponding fines.

11.2. E-Auditing
There are no specific provisions on this topic.
12. Penalties and risks for non-compliance

12.1. Penalties
Lack of payment of taxes within the established period is subject to monthly fines, regardless of any further action to be followed by the tax authorities.

The fine is 5% of the unpaid balance for each month or fraction of month overdue, which must be paid as from the date on which the corresponding return should have been filed.

In the case of VAT withholding agents, a 5% fine will be applied over the unpaid balance for each month or fraction of month overdue.

In no case should the accumulated fines, subject of this section, exceed the equivalent to 50% of the unpaid balance.

12.2. Interest on late payments
See 12.1 above.

12.3. Joint Liability
Taxpayers and withholding agents are the only liable persons before the Tax Authorities for the VAT due.

Any person that unduly withholds or charges VAT will be deemed directly liable before the person affected by such withholding or charge. If such unduly withholding or charge of VAT is proven to be tax fraud, the person may be prosecuted.

If a person that withholds or perceives VAT by error, pays the money to the tax authorities within the maximum period of one month of withholding or perceiving it, the act will be considered as an excusable error and refund will take place for the corresponding amount to the creditor, at his simple request.

Likewise, the representatives of economic entities or non-resident persons, whatever the nature of their representation may be, when by their intervention activities subject to VAT are carried out, they are obliged, with the sole responsibility, to comply with the obligations defined by the Law.

Economic entities are groups of persons that even though they are independent from a legal perspective, are organically linked between each other by economic, financial and organizational relationships, such as the origin of their capitals, the distribution of their utilities, the conduction or real management of their businesses, the structure of their trade operations, or of any other determining factor. For tax purposes the economic entities will be considered as one person.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The statute of limitations for debit tax is four years from the due date.

13.2. Recovery of VAT by the taxable person
The statute of limitations for credit VAT is four years from the due date.

14. Rulings and Decisions

Taxpayers may request rulings before Tax Authority regarding the VAT treatment of specific transactions, which are binding for the taxpayer.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
Taxpayers would be deemed to commit fraud on the following cases, and subject to the following penalties:

• VAT withholding agents as defined by law, which do not pay the collected VAT amount to the Tax Authorities; one year of prison.
• Those charging VAT without being duly authorized; two years of prison.
• Those charging VAT on non-taxable transactions and making profit of it by not paying it to the Tax Authorities; two years of prison.

If the VAT withholding agent is a legal entity, the criminal offense will be allocated to the person with direct administrative responsibility within the organization.

16. Other Rules

16.1. VAT withholding regimes
A VAT withholding agent is the person obliged to transfer VAT or excise tax, according to the case, and hand it over to the Tax Authorities, according to the requirements established by the Law.

VAT is applicable and must be withheld on the following transactions:

16.1.1. Occasional supply of goods or services
Where there is an occasional supply of taxable goods or services, the responsible withholding agent must pay the tax in the form, time and place determined by the Tax Authorities according to the nature of the taxable transaction. This payment is due within seven working days after the transaction has been carried out or the corresponding payment has been received.

16.1.2. Close of Business
When the taxpayer closes operations there is an obligation to pay the VAT corresponding to the taxable goods in stock, once the sale of the inventory has taken place. In the case of acquisition of a business, the purchaser must demand a solvency certificate in relation to VAT, and if such certificate is not provided, the acquirer becomes obliged and solely liable for the taxes due by the previous VAT withholding agent.

16.1.3. Transactions not recorded in accounting books
In general terms, when an acquisition is not recorded in the accounting books, the transaction is deemed as a supply subject to VAT (unless taxpayer proves the opposite). The value of this transaction will be the acquisition value plus a mark-up established by administrative resolutions issued by Tax Authorities.

16.1.4. Small Business Regime
The finance department of the Executive Branch establishes parameters and requirements so that small business taxpayers have a legal framework that simplifies the procedures according to the contributive capacity of what is considered a simplified special regime of fixed quota for VAT payment in order to ensure VAT collection.
Nicaragua
Useful contacts

Andrea Paniagua
Partner
Tel.: + (506) 2224 1555 ext. 136
Email: andrea.paniagua@do.pwc.com

Elias Alvarez
Manager
PwC Nicaragua
KM 6 1/2 Carretera a Masaya
Edificio Cobirsa II, tercer piso
Managua, Nicaragua
Tel.: +(505) 2270-9950 ext. 136
Email: elias.x.alvarez@ni.pwc.com
Panama

1. Scope

ITBMS (Spanish acronym for “Impuesto a la Transferencia de Bienes Muebles Corporales y la Prestación de Servicios”) is the Panamanian Value Added Tax (VAT). This is a national tax. The following transactions are subject to VAT:

• Supplies of movable property;
• Supplies of services; and
• Importation of goods.

There are some special regimes that do not tax transactions of certain individuals (Knowledge City, Renewable Energy Sources, etc.) and specific VAT exempted free trade zones (Colon Free Trade Zone, Petroleum Free Zone, etc.).

2. Taxable Persons

2.1. Definition

The VAT law in Panama defines a “taxable person” as the supplier of goods or services whose yearly gross income is greater than US$36,000.00, or the importer of goods regardless the amount of the importation.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Panama.

3. Place of supply

3.1. Goods

The supply of goods is taxable when it is carried out within Panama, regardless of where the transaction was agreed upon or paid.

3.2. Services

Services are taxable when performed in Panama (even when used or enjoyed abroad).

4. Chargeable event, chargeability of tax

4.1. Goods

The VAT chargeable event on the transfer of goods is the issuance of the invoice or the delivery of the goods, whichever occurs first.

The VAT chargeable event is also when the owners, partners, shareholders, officers, or legal representatives consume goods of the business for personal purposes, or when the entity accounts it, whichever occurs first.

4.2. Services

The VAT chargeable event for the supply of services is the issuance of the invoice; the completion of the service; or the partial or total payment of the service, whichever occurs first.

Within the definition of services, the legislation includes the following:

• The performance of construction projects with or without the delivery of materials;
• Intermediary services;
• The lease of immovable goods and movable or any other agreement or act which has as its main purpose the transfer of the right to use the goods;
• The commissions charged from the transfer of negotiable documents and notes in general, the commissions paid arising from the services provided by banks and other financial institutions.

The VAT chargeable event is also when the owners, partners, shareholders, officers, or legal representatives consume the services of the business for personal purposes, or when the entity accounts it, whichever occurs first.

4.3. Imports
VAT is assessed and paid at the Customs Authority of Panama at the point of importation.

5. Taxable Amount

5.1. General Rule
VAT is generally levied on the base price plus any other tax on the transaction. The following is an outline of what the taxable amount is for certain goods and services in Panama:

• Supply of goods: the accrued price of the good;
• Supply of services: the price of the service. Expenses incurred in relation to the supply of services are not taxable as long as they are duly documented;
• Rental of movable goods: the taxable amount is the greater of the agreed price or the depreciation plus 15%;
• Rental of Real Estate: the taxable amount is the greater of the agreed price in the contract or the invoiced amount;
• Barterers (exchange of goods, services, or goods with services): the taxable amount is the greatest value of the exchanged goods or the value of the services;
• Imports: the taxable amount is the cost, insurance and freight (CIF) value plus the amount of tax, duty, right, and contribution paid on the imported goods. If the CIF value is unknown, the taxable amount is calculated based on the FOB value plus 13.5% of the cost of freight and 1.5% of the cost of insurance.

5.2. Exchange Rate Rules
There are no specific provisions on this topic.

5.3. Rounding Rules
There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate
The standard rate for VAT in Panama is 7%.

6.2. Increased Rate
The following products are subject to an increased VAT rate in Panama:

• Alcoholic beverages and public lodging services (10%)
• Tobacco and its derivatives (15%)

6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
Activities related to the supply and imports of the following goods:

• Farming products in natural state;
• Goods within the Free Trade Zones, or those transferred through the endorsement of documents before they enter Panamanian Customs territory;
• Soft drinks;
• Crude oil, fuel, and related products, except lubes;
• Certain fertilizers;
• Pests controllers and other similar products;
• All the seeds used for crop purposes;
• Barbed wire;
• Hand tools used for harvesting and cropping;
• Newspapers and magazines (excluding pornography);
• Notebooks, textbooks, pens and other similar goods used for school;
• Tap water provided by a public institution or other similar public service entities;
• Certain medicines and pharmaceutical products;
• Foreign currency, stocks and public or private securities;
• Transfer of property in pre-nuptial agreements, such as contribution or division of conjugal goods;
• Expropriations, supplies made by the State, unless done by industrial or commercial businesses from the State;
• Adjunction of goods within trials; and
• Negotiable instruments and securities transfers.

Activities related to the supply of the following services:
• Health services;
• Home rentals longer than 6 months;
• Services related to education provided that the service provider is authorized by the Ministry of Education;
• Loans given to the Government of Panama;
• Cargo or passenger transport;
• Production, transmission and distribution of electric energy;
• Fixed residential telephone services;
• Postal services supplied by the Government of Panama;
• Gambling in casinos and hippodromes;
• Insurance;
• Internet services for homes and educational institutions;
• Sewage and cleaning services provided by public institutions;
• Sports events made by institutions recognized by the Sports National Institution;
• Restaurant services provided that alcoholic beverages are neither sold nor consumed within its premises;
• Social communication services; and
• Logistics services rendered in free zones to cargo whose destination is abroad.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Export of tangible goods is zero-rated for VAT purposes. The sale in the local market of certain pharmaceutical, childcare products and food are deemed exportations, under certain conditions, which can be credited against income tax advance payments.
8. Deductions

8.1. VAT recovery
Input VAT incurred by a taxable person can be offset against output VAT, provided that it is attributable to taxable transactions and certain additional requirements are met. Input VAT generated at start-up stage can also be recovered.

In the event that VAT input relates to transactions within the VAT scope and exempt transactions, such VAT input will be recoverable using a pro rata calculation.

9. Person liable to pay VAT – non-established taxable persons

9.1. VAT Liabilities
Non-established persons are not liable for VAT when they supply services within Panama. For such purposes, the acquirer of the services must withhold VAT that would be considered as part of the invoiced value.

9.2. Registration for taxable persons not established in the country
Registration is not needed because the purchaser is responsible for withholding VAT.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
Taxpayers with a taxable presence in Panama for purposes of VAT cannot be exempt from registering, even if the taxpayer is not a collector of VAT.

9.7. Joint Liability
There is no joint liability for registration; however, business transfers may trigger joint liability issues.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is required to charge and account for VAT on its transactions. For imports of services or intangible goods, VAT is self-assessed by the local person liable for VAT.

Withholding agents are also required to account for taxes withheld in their records.

They are required to file a return and remit payments within ten calendar days of the accrued day of the withholding.

A taxpayer is liable for VAT if its total average of monthly invoices during the tax year is greater than USD 3,000 or if the taxpayer deems that its total average of monthly invoices will be greater than USD 3,000.

10.2. Registration
There is no special registry for VAT; however, taxpayers are required to declare before the Unique Taxpayer Registry or RUC (Spanish acronym for “Registro Único de Contribuyentes”) that their supplies are subject to VAT.

10.3. VAT Identification Number
For business entities, the RUC is the registration number assigned by the Public Registry (this number certifies whether an entity is duly incorporated). The RUC number also includes a validation digit.

For Panamanian individuals, RUC is their Identification Number plus a validation digit. Foreigners must submit a request to the Tax Administration in order to get an identification number in the RUC, which begins with “8-NT” where NT stands for Taxation Number.
10.4. Tax authority
The VAT tax authority is the General Directorate of Revenues or DGI (Spanish acronym for “Dirección General de Ingresos”).

Tax Authority is entitled to perform audits to ensure tax compliance. This is generally done by reviewing the taxpayer’s accounting records and tax returns. If assessments are issued as a consequence of an audit, DGI may require payment of unpaid taxes and certain corresponding tax penalties.

10.5. Invoicing

10.5.1 Valid Invoice
According to Law 72 of 2011, all the invoices issued in support of supply of goods or rendering of any service should be emitted by a new printing device duly authorized by the Tax Authorities.

There are some exceptions for this obligation, in the case of small traders and service providers during the previous fiscal year have generated average monthly gross income not exceeding B/.3,000.00 and annual gross revenues have exceeded the B/.36,000.00, may request exception of the use of the printing device.

It is important to note that this process is not automatic, reason why the taxpayer must request before the tax authorities and be subjected to their verification. There is also a temporal authorization of non-use of equipment for companies with massive invoicing according to Resolution No. 201-11902 published on Official Gazette No. 26924-A from December, 2011:

- Commercial activities whose monthly invoicing is B/.85,000.00 or more, are exempted from the use of the printing device until there are equipments with the technical requirements that are needed for their large volume.
- This exception covers Utilities, Telecommunications, Cable and Wholesale Distributors.

The invoice should include the following information:

1. The name of document, if it is invoice or receipt
2. Taxpayer ID number of the company
3. Consecutive and unique numbering
4. Number of registry of the printing device
5. General Information of the place of issue
6. Date of issue of the invoice
7. Description of the transaction that is perfected
8. The breakdown of the taxes included in the transaction
9. The individual price of each product or service included in the invoice
10. The fiscal logo
11. Additional expenses

All the invoices should have a numeric order, registry and colors for the use of branches and subsidiaries, points of sale and identification acronym if applicable. Also must mention if it is considered a VAT collector as well as any other formal aspects that allow control, registry and accounting of the VAT taxed or exempted.

Some activities exempted of the use of printing device are:

1. Agricultural activities who’s gross taxable income is less than USD 250,000.00 in a fiscal year
2. The transfer of real estate and other properties that are dully registered.
3. Public transportation services
4. Transport of petroleum goods
5. Banking operations
6. Stock market operations
7. Dependence labor relations according to the Labor Code
8. Crafting services
9. Peddling services
10. Leasing activities dully registered at the Ministry of Housing
11. Maintenance payments in case of horizontal properties
12. Income belonging to non-profit associations dully registered at the Tax Authority offices
13. Maritime institutions that regulate the marine activities.
14. Hostels that have less than seven rooms
15. Any other activity that has a low volume due to their nature

Also some entities not obligated to have this printing devices are:

1. Nonprofit organizations dully registered as such before the Ministry of Govern and Justice.
2. Purchase of importing liquefied local dealer.
3. Gas stations pending the availability of wireless devices.
4. Freight Companies, pending the availability of wireless devices.
5. Companies whose activity is car rental (will only use the device for their daily closure of the operations).
6. Toll stations whose owner is the National Entity of Highways.

In the case of Free Zones all internal commercial transactions performed inside a Free Zone must be supported by a fiscal invoice (issued by this new printing device).

In Panama we have Colon Free Zone, in this case the invoicing must be supported by the Customs Liquidation and the Electronic Document of Commercial Movement (DMCE).

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Invoices can be preprinted by an authorized print shop or by the taxpayer.

10.5.3. Electronic Invoicing
Electronic invoicing was established by the Electronic Commerce Act. The Tax Authority is responsible for authorizing the use of invoicing systems and taxpayers may submit a request to use a specific electronic invoicing system.

10.6. Credit notes and debit notes
There is no legislation regarding credit and debit notes; however, they are generally used in the same manner as invoices.

10.7. Books and Accounting Registers/Records
Books must be kept current. Registries are generally considered current if the registries are made within 60 calendar days following the close of the month in which the transaction was made.

Although taxpayers are not required to keep a book for VAT purposes, it is, however, mandatory for taxpayers to have a special account named “TESORO NACIONAL - ITBMS” (National Treasury - VAT) in order to register VAT credits and debits and “ITBMS cuenta gastos” (VAT expense account) in order to register paid VAT that does not produce a credit.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
The retention period is five years from the end of the period to which the documents relate.
10.8.2. Format of Archiving  
Documents can be archived electronically, upon authorization of the Tax Authority.

10.8.3. Place of Archiving  
The books must be located in Panama.

10.9. Supporting documentation  
In order to support VAT credits, taxpayers must keep every valid invoice in which the VAT credit is accounted. Every supply must be also documented with their corresponding invoice for a period of up to five years.

10.10. Tax period and VAT returns  
As a general rule, VAT return is due within the first 15 calendar days of the next month to be reported.

10.11. Due Date for payment of VAT  
The due date for the payment of VAT is the same as the due date of the VAT return.

10.12. Refunds of VAT  
VAT is not refunded unless the taxpayer is an exporter of goods, local supplier of food, some childcare products or medicines or the credit arises from a VAT overpayment on imports.

There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)  
If taxpayers make supplies of goods or services not subject to VAT, the taxpayer must pay a stamp tax on the supplies and file the corresponding stamp tax returns.

If the taxpayer has a total amount of invoices greater than USD 1,000,000 a year or assets greater than USD 3,000,000, the taxpayer must report on a monthly basis the total amount purchases of goods and services purchased as well as imports.

11. Auditing  

11.1. Auditing  
The DGI audits taxpayers on a sporadic basis. The statute of limitations for VAT audits is five years.

11.2. E-Auditing  
The DGI regularly performs electronic verifications of tax returns with the information provided by the taxpayers.

12. Penalties and risks for non-compliance  

12.1. Penalties  
Payments done after 60 calendar days of the due may result in a 10% surcharge plus interest (2% over the commercial interest market reference) and a penalty ranging from USD 100 to USD 500 for first time offenders and from USD 500 to USD 5,000 for repeat offenders. Taxpayers who exceed the 60 calendar days following the due date may be considered as committing tax fraud.

Taxpayers who fail to file a tax return may be sentenced to 2 to 5 years of prison or levied a penalty that is equal to five to 10 times the VAT amount due.

12.2. Interest on late payments  
Interest on late payments is equal to the market reference commercial interest plus 2%.

12.3. Joint Liability  
There is joint liability in the case of business transfers.

13. Statute of Limitations  

13.1. Recovery of VAT by the tax authority  
The statute of limitations for claiming VAT by the Tax Authority is five years from the due date of the related VAT return.
13.2. Recovery of VAT by the taxable person
The statute of limitations to recover VAT by the taxpayer is five years from the due date of the related VAT return.

14. Rulings and Decisions
Taxpayers may request rulings before the Tax Authority on an ad-hoc basis that can support the VAT treatment applied to a specific transaction. Tax Authority's decisions are not binding.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
The Tax Authority's main anti-avoidance measure is to perform electronic cross-checks of the information provided by third parties in their tax returns with the information provided by the taxpayers in their return. The filling of the purchases report, in which large taxpayers report their purchases, provides the Tax Authority key information about the taxpayers.

16. Other Rules
Aside from withholding regimes and special exemptions, there are no other special regimes in Panama for VAT purposes.

16.1. VAT withholding regimes
Governmental institutions must withhold 50% of the VAT generated on transactions higher than USD 20,000. Professional individuals supplying services to governmental institutions may opt for a special withholding regime in which the institution applies the withholding rate on the total VAT due.

For goods or services supplied to persons not established in Panama or to joint ventures or partnerships in fact, the local supplier must withhold VAT and pay it within 10 calendar days.

16.2. Other regimes
Certain taxpayers are exempt from VAT, such as Knowledge City Businesses and Diplomatic and Consular Representations. In order to be exempt these from VAT on transactions, taxpayers must keep a copy of the resolution granting VAT exemption to the purchaser.
Panama
Useful contacts

Francisco A. Barrios G.
Partner
Ave Samuel Lewis & 55E Street
PwC Building
Panamá City, Panamá
Tel: +(507) 206 9217
Email: francisco.barrios@pa.pwc.com

Ricardo Madrid
Manager
Ave Samuel Lewis & 55E Street
PwC Building
Panamá City, Panamá
Tel: +(507) 206 9200 ext. 1311
Email: ricardo.madrid@pa.pwc.com

Pedro Anzola
Senior
Ave Samuel Lewis & 55E Street
PwC Building
Panamá City, Panamá
Tel: +(507) 206 9200 ext. 1725
Email: pedro.anzola@pa.pwc.com
1. Scope

Value Added Tax ("VAT") was introduced on 1 July 1992 and applies on Paraguayan territory. It was partially modify in 2004 (Law N°2421/04) and the new rules were applied since 2006.

The VAT shall apply to supply of goods or services and the importation of goods, excluding personal services performed under employment.

2. Taxable Persons

2.1. Definition of Taxpayer

- Individuals supplying professional services independently of their taxable income, and individuals supplying personal independent services, when their gross income in the previous year was greater than the average of a monthly minimum salary;
- Cooperatives and associations;
- Persons engaged in commercial, manufacturing or services businesses;
- Partnerships and private entities in general, individuals domiciled or partnerships constituted abroad, including those engaged in imports and exports;
- Entities of social assistance, charity or beneficence, federations, foundations, corporations, etc;
- Independent government entities, government enterprises and decentralized agencies engaged in any of the businesses listed above; and
- Any other person importing goods not defined in the previous paragraphs.

2.2. VAT Grouping

There are no VAT Grouping provisions in Paraguay.

3. Place of supply

3.1. Goods

All sale of goods in the national territory are taxable in Paraguay.

3.2. Services

In the case of technical assistance, service occurs when it is used or profited in Paraguay; in the case of the sales assignment of intangible assets, service occurs when such goods or rights are used, even partially, within the national territory. Also, in the case of the sale of goods if the tax obligation arise when the buyer takes possession.

In the case of insurance and reinsurance, service is deemed to takes place in Paraguay when the coverage includes risks within Paraguay or when the insured goods are located in Paraguay or insured persons are residents of Paraguay.

4. Chargeable event, chargeability of tax

4.1. Goods

In the case of the supply of goods, the tax obligation arises upon delivery of the goods, or the issuance of an invoice or equivalent act, whichever happens first.

4.2. Services

The tax obligation arises upon issuing an invoice, upon full or partial payment for the supplied service, upon the expiration of the payment term, or upon the termination of the service.
In the case of public services (i.e., electricity, gas, water, etc.), the tax obligation arises on the due date of the invoice.

4.3. Imports
In the case of imports, the tax becomes payable upon registering the entry of the goods with Customs.

5. Taxable Amount

5.1. Goods
It is the price of the goods invoiced and the Law considers that this price includes the VAT. To determine the net price, the value of the returned goods it or any discounts must be deducted to determine the real price.

In case of discounts, the VAT has to be paid on the net price (original price less the discount). However, the discount must be reasonable according to market practices.

In the case of self consumption or use, promotions, free transactions or when the price is unknown, the price will be determined as the market value.

When the price cannot be determined, the price is calculated by adding a 30% markup to the cost of goods. To establish net price and to determine the price of goods used or consumed for non-business purposes, the same rules apply as in the case of business income tax, in addition to any special provisions.

5.2. Services
The taxable amount is the price of the services billed. When services are subject to tariffs these will be considered the value of such services for the purposes of the tax.

In the case of services subject to fixed price scales, such prices shall be deemed to be minimum prices.

5.3. Importation
The taxable amount will be determined according to the customs value reflected in foreign currency.

In all cases, the taxable amount shall include the value of taxes applicable to the transaction, excluding the VAT.

5.4. Exchange Rate Rules
There are no provisions for VAT purposes regarding the exchange rate.

5.5. Rounding Rules
There are no specific provisions on this topic.

6. Rates

6.1. Standard Rate
The standard tax rate is 10%.

6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
The reduced rate is 5% and is applicable to:

- Cession of use of the goods or transfer of real estate;
- Transfer of household consumable products, such as milk, rice, pasta, oil, vegetables, eggs, meat, flour, salt, etc.;
- Interest, commission and loans charges;
- Supplies of medicine.
7. Exemptions

7.1. Exemption with no right to deduct input VAT
• Farm products in their natural state;
• Animals from hunting and fishing;
• Foreign currencies, government or private bonds, securities including shares of stock;
• Goods received through inheritance;
• The assignment of credits;
• Magazines, books and journals;
• Interest on government or private bonds;
• Certain intermediation transactions in the financial sector regulated by the Banks and Financial Institution Laws;
• Services supplied to permanent or temporary diplomatic officials to embassies, consulates and international organizations accredited to the national government under current legislation;
• Political parties, social welfare, charity, educational institutions and those devoted to scientific and literary creation, the arts, labor unions, physical training and sports organizations, associations, corporations and other entities endowed with legal existence provided their earnings or surpluses are not distributed among their associates or members, and which shall be devoted exclusively to the aims they were created to serve;
• Religious entities recognized by competent authorities, on acts related exclusively to worship and religious services.

The following imports are exempt of VAT:
• Travelers' baggage;
• Diplomatic service imports;
• Goods applied directly to the productive cycle in manufacturing or farming for projects benefited by the incentives offered under Law.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
The exports of goods are subject to a zero tax rate. The input credit related to export transactions may be recovered as a tax credit. A return must be filed along with supporting documents before the tax authorities in order to claim such credits.

8. Deductions

8.1. VAT Recovery
A tax debit is the sum of taxes accrued (invoiced as opposed to collected) from taxable transactions each month.

A tax credit is the sum of taxes included in purchases of goods and services on the local market and imports during month period. The tax that shall be paid is the balance representing the difference between tax debits and credits.

Deduction of any tax credit is conditioned to such credit arising from goods or services related directly or indirectly to the transactions subject to taxation.

When the tax credits exceed tax debits, the excess may be carried over to future returns. However, during the last tax period of the year, carrying over excess input credits will not be allowed if they are related to transactions taxed at the rate of 5%. In this case, the excess will become a cost for the taxpayer.
9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT if they have a permanent establishment in Paraguay.

9.2. Registration for taxable person not established in the country
Paraguayan legislation does not provide any registration mechanism for non-established businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is the person that is liable to charge and account for the VAT on its transactions, except for the case of importation of services or intangible goods. In this last case VAT is self-assessed (reverse charged) by the local person liable to VAT.

Withholding agents are also obliged to account for withheld taxes, including the VAT, in their records, and they must file a return and make payments on a monthly basis.

VAT must be withheld by Paraguayan residents when they acquire goods or services from foreign entities or non-residents.

10.2. Registration
Resident business or entities that want to perform commercial activities in Paraguay, should obtain a tax identification number which is used for all tax purpose including VAT.

To register, the following must be presented to the tax authorities:

- Persons: identification card, documentation related to the place of residence (i.e. public services invoice). In addition, persons must fill out a form indicating the activity that they will perform;

- Entities: certificate of incorporation, by-laws, identification documents of the legal representative, power of attorney, documentation related to the place of residence (i.e. public services invoice). In addition, entities must fill out a form indicating the activity that they will perform.

10.3. VAT Identification Number
The Tax Identification Number is used for all tax purposes, including VAT.

In the case of person, the tax identification number is the same number as the personal identification number plus a validation digit.

For business entities, the tax number consists of eight digits plus a validation digit.

10.4. Tax authority
The Sub-secretariat of Tax (Subsecretaría de Estado de Tributación del Ministerio de Hacienda - SET) is a division of the Treasury Minister which is responsible for the administration of the VAT and all the local taxes.
SET is entitled to perform audits to ensure tax compliance. This is done by reviewing the taxable persons accounting records and tax returns. If assessments are issued as a consequence of an audit, SET is entitled to assess unpaid taxes and apply the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the invoices regulations. This regulation provides the specification for the format, dimensions, data elements and other mandatory requirements that invoices and other tax documents must comply with for tax purposes.

Invoices and similar documents issued by non-residents are not required to comply with such requirements for VAT purposes.

The invoice has to contain the following information:

• Name, address and tax identification number of supplier;
• Transaction date;
• Tax identification number and name of the purchaser;
• Description of transaction, supplied goods or services and the corresponding unit price;
• Amount of the VAT;
• The period of use of the invoices.

The invoices have to be used by the taxable person within a maximum period of one year, starting from their printing date. If the invoices are not used in this period, they must be cancelled in the terms stipulated in the legislation.

Invoices can be either issued in local currency or US dollars. However, accounting registers must be recorded in local currency, applying the corresponding exchange rates rules.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Outsourcing and self-billing are not applicable in Paraguay.

10.5.3. Electronic Invoicing
Taxpayers have to request an authorization from the tax authorities to use electronic invoices. The taxpayers then will be required to submit information regarding the data and software use for this purpose. Electronic invoicing is permitted only to large taxpayers, according to a list issued by the tax authorities.

10.6. Credit notes and debit notes
Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice that will be amended.

Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.7. Books and Accounting Registers/Records
The taxpayers must keep the VAT purchase and VAT supplies books in which transactions are to be recorded.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Records have to be kept five years from the date the documents are issued.

10.8.2. Format of Archiving
Records cannot be kept solely in electronic form. Paper copies are still required to be kept at the taxpayer’s domicile.

10.8.3. Place of Archiving
Records must be stored in Paraguay, at a place of business place or at another site, such as a warehouse, etc.
10.9. Supporting documentation
Persons liable for VAT are required to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, the tax authorities may issue assessments during tax audits.

10.10. Tax period and VAT returns
Persons subject to VAT must file monthly returns, irrespective of whether they perform taxable transactions.

Monthly VAT returns’ due dates are set forth in a tax calendar published by the tax authorities. The calendar is set out according to a digit that is linked to the last digit of the taxpayer’s identification number. Each digit (0 through 9) has a calendar date assigned in which the returns must be filed.

10.11. Due Date for payment of VAT
The VAT payment is due on the same date the return is filed according to the tax calendar.

10.12. Refunds of VAT
Local businesses can obtain a refund where input VAT exceeds output VAT at the end of each monthly period. There is no refund mechanism for non-resident businesses.

10.13. Additional Reporting (statements)
Certain taxpayers must also submit monthly purchase listings, which include information about transactions with suppliers of goods and services (i.e., tax identification number and name of the supplier, price of the transaction, amount of the VAT, etc.) They are assigned by the Tax Authority for this purpose and have to send a monthly specific report called “Hechauká”.

11. Auditing

11.1. Auditing
The auditing process is performed by the tax authorities when there is a certainty or suspicion of tax evasion. Additionally, the taxpayer may be audited according to a draw process that is made by the tax authorities.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
Penalties and fines for late payments are assessed with interests ranging from 4% to 14%. The tax authorities establish a range which determines the rate of the penalty depending upon the length of delay of payment or the amount of tax debt.

In addition, there are penalties for lack of compliance when filing inadequate forms. The amount of this last penalties ranges from USD 10 to USD 200.

12.2. Interest on late payments
In addition to the penalties, the late payment is subject to interest. Interest rate is 1.5% per month if the taxpayer makes a voluntary disclosure. If the offense is detected by the tax authorities, the interest will be increased to 2.5%.

In both cases, interests are calculated from the day after the payment due date.

12.3. Joint Liability
There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
The tax authorities may audit the taxpayer records for the last five years from the VAT due date.
13.2. Recovery of VAT by the taxable person
The taxpayer may request to the tax authorities refund of tax credits for a period of four years counted from the date in which the credit was due.

14. Rulings and Decisions
The Tax Law establishes that a taxpayer may request an opinion to the Tax Authorities regarding any tax law interpretation. The Opinion should be issued within a period of 90 days. This opinion may be appealed to the Judicial Authority.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
There are no specific provisions on this topic.

16. Other Rules

16.1. VAT withholding regimes
There are no specific provisions on this topic.
Paraguay
Useful contacts

Ruben Taboada
Partner
General Díaz N° 521 - 6° Piso
Edificio Internacional Faro
Asunción, Paraguay
Tel.: + 595 21 418 8000
Fax: + 595 21 418 8000
Email: ruben.taboada@py.pwc.com

Nadia Gorostiaga
Director
General Díaz N° 521 - 6° Piso
Edificio Internacional Faro
Asunción, Paraguay
Tel.: + 595 21 418 8302
Fax: + 595 21 418 8000
Email: nadia.gorostiaga@py.pwc.com

Jorge Guillermo Gomez
Senior Assistant
General Díaz N° 521 - 6° Piso
Edificio Internacional Faro
Asunción, Paraguay
Tel.: + 595 21 418 8323
Fax: + 595 21 418 8000
Email: jorge.g.gomez@py.pwc.com
Peru

1. Scope

Value Added Tax (VAT) was introduced in Peru in 1973. There is no federal system, which means that VAT rules apply nationwide (unless it is established otherwise by the government) and its collection constitutes part of the country's Public Treasury.

There are free trade zones where VAT does not apply or zones subject to certain benefits (e.g., businesses settled in the Amazon Rain Forest Zone). A transaction in those territories may become taxable in cases where the customer resides outside the free trade zones or benefit territories.

The following transactions are subject to VAT:

- Sales of goods;
- Supplies of services;
- Construction contracts;
- First sale of real estate property performed by the builder; and
- Imports of goods.

2. Taxable Persons

2.1. Definition

Taxable persons are individuals and/or legal entities that perform business activities, and those persons that perform taxable transactions on a “regular basis.” This “regularity” has to be determined by the Tax Authorities based on the nature, conditions, amount, frequency, volume and/or periodicity of the operations performed.

2.2. VAT Grouping (VAT consolidation regime)

There are no VAT Grouping provisions in Peru.

3. Place of supply

3.1. Goods

The place of supply rule is where the goods are physically located at the moment in which the ownership is transferred to the customer or purchaser.

This rule includes goods that are temporarily outside the country at the moment of performing the sale or when goods to be imported have already been dispatched for final import into Peru, as well as goods that are registered in Peru for any legal purpose.

Intangibles are deemed to be transferred within the Peruvian territory whenever the parties performing the operation are local residents.

The first transfer of real estate is subject to VAT only when located within the Peruvian territory.

3.2. Services

The place of supply of services is where they are physically performed for the user. This criterion also applies for construction contracts and royalties.

Services provided by non-residents to local persons liable to VAT are taxable when economically used within the Peruvian territory.
4. Chargeable event, chargeability of tax

The chargeable event (or tax point) for supplies subject to VAT is linked to the moment where invoices have to be issued by the taxpayer, pursuant to the invoicing rules. The chargeable events are:

4.1. Goods
- Sale of movable goods: When payments are made (totally or partially) or when goods are delivered to the purchaser, whichever occurs first. In supply of business property for private consumption, the tax point is when the goods are effectively withdrawn for consumption;
- Sale of intangibles: The tax becomes chargeable when payments are made or in the due dates established in the purchase contract, whichever occurs first;
- First transfer of real estate: When payments are made, totally or partially (the tax applies on the portion paid).

4.2. Services
- Supply of services: When payments are made (totally or partially) or services are completely rendered. Continuous use of goods is also taxable when payments become due.
- Supply of services by non residents: When the invoice is recorded in the accounting books (purchase ledger) or when payments are made, whichever occurs first;
- Construction contracts: When payments are made, totally or partially.

4.3. Imports
On the import of tangible goods, VAT should be paid when filing the corresponding import declaration (custom clearance).

5. Taxable Amount

5.1. Goods and Services
As a general rule, the taxable base for sales is the consideration (sales proceeds) agreed by the parties for a transaction. However, when such value cannot be supported, the Tax Administration is entitled to make an adjustment in accordance to market value standards contained in the Income Tax Law.

Self-consumption is taxed levied on the value of the goods agreed between third parties at the moment in which they are self-consumed. In absence of comparable transactions, fair market rules apply.

Adjustments to the sales proceeds must be applied to account for bonuses, discounts and similar commercial reasons, provided certain conditions are met (i.e., goods are returned and retribution is refunded). These adjustments will take effect in the period in which they occur, if they are duly supported with the corresponding credit or debit notes or addressed in the original invoice.

5.2. Importation
The taxable amount is the value used at customs, plus the duties and other taxes applicable to imports (except the VAT) in accordance with the Customs Valuation Agreement of the World Trade Organization (“WTO”).

5.3. Exchange Rate Rules
Although the taxable amount on transactions can be expressed in a foreign currency, tax returns must be filed in local currency (Peruvian Nuevo Sol). For such purposes, taxpayers shall convert each item included in their tax return by using the exchange rate published by the Superintendent of Banking and Insurance in force at the triggering event date.

5.4. Rounding Rules
The VAT payable has to be rounded up (0.5 to 0.9) or down (0.1 to 0.4) into whole units within the monthly returns. This rounding rule is applicable for every tax purpose.

6. Rates

6.1. Standard Rate
The Peruvian VAT has a standard rate of 16%. However, there is an additional Municipal Promotion Tax, imposed at the rate of 2%, which is added to the VAT rate. Therefore, the VAT rate is commonly referred as being equal to 18%.
6.2. Increased Rate
There are no increased rates.

6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemptions with no right to deduct input VAT
Exempt transactions are listed in Appendixes I and II of the VAT law and are applicable for determined periods of time. Examples of exempt transactions include:

- Sales of determined agricultural goods;
- International cargo transportation;
- Cultural events;
- Public transport of goods and people;
- Interest of securities issued through the stock exchange by public offering;
- Interest of securities acquired through centralized mechanisms of trading; and
- Life insurance policies.

As a general rule, non-taxable transactions (also known as “out of the scope” transactions) also affect the recovery of input VAT. However, some input VAT related to certain out-of-scope transactions, such as VAT paid on overhead or multipurpose supplies related to taxable transactions, may still be fully recovered. Example out of the scope transactions include:

- Corporate restructurings, pursuant to the General Corporate Law (excluding the transfer of going concern);
- Attribution of goods contributed in order to operate a joint venture, and obtained as a result of a joint venture’ performance;
- Financial services (with some exceptions);
- Interest and capital gains derived from deposit certificates issued by the National Bank; and
- Import of goods donated to religious entities.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Export of goods and services are considered as exempt with the right to deduct input VAT. VAT receivables related to these transactions can be either used as credit against output VAT or refunded pursuant to a special procedure.

Goods are considered exported where, as part of the conditions of the supply, the goods need to leave the country. Services, on the other hand, qualify as exports when they meet specific requirements, including, services listed in Appendix V of the VAT law or appointed as such by other specific law, the exporter has to qualify as tax resident, the user must be non-resident, the use or consumption has to take place abroad, among others.

Activities that are considered services that can be exported include:

- Consulting and technical assistance services;
- Rental of movable goods;
- Publicity, market research and public opinion survey services;
- Placement fees from loan transactions;
- Call center services;
- Insurance;
- Business support; among others.
8. Deductions

8.1. VAT recovery
The VAT Law follows a debit/credit system and, input VAT may be offset with output VAT. Any VAT credit that is not offset in a certain month, can be carried forward (at historical values) to be offset against any future output VAT. It is to be noted that VAT credit cash refunds are only available for exporters and some entities at a pre-operative stage, provided certain conditions are met.

In every case, VAT receivables must correspond to purchases that qualify as a deductible cost or expense for income tax purposes, even if the taxpayer is not liable to income tax.

When input VAT relates to taxable transactions, exempt transactions, and/or transactions that are out of the scope of VAT, such receivables can be recovered using a pro rata calculation.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT if they have a permanent establishment in Peru or if they carry out VAT activities in Peru through an establishment, other than a permanent establishment.

9.2. Registration for taxable person not established in the country
Tax registration is not required for non-residents, unless they meet the requirements for any of the rules to be considered a resident in Peru (establishment of a branch, permanent establishment, among others).

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.

9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons liable to account for VAT
The supplier of taxable transactions is the person responsible to charge and account for VAT. This rule will not apply where the supplier of services is a non-resident, in which case, VAT has to be self-assessed (or reverse charged) by the local consumer or user of services.

Where a VAT withholding system applies, withholding agents are also liable to account for withheld taxes and must file the corresponding withholding returns on a monthly basis and make payments to the Tax Authorities.

10.2. Registration
There is no specific registration for VAT purposes. There is a single registration process for tax purposes, which is the Taxpayers Unique Registry (Registro Único de Contribuyentes - RUC). There are no thresholds for VAT registration, but only the condition of qualifying as a person subject to taxes in Peru.

The person liable to VAT has to file a registration form before the Tax Authorities.

In addition, the following documents have to be filed with the Tax Authority (SUNAT):

- Copy of the taxpayer’s or tax representative’s Identification document;
- Copy of utilities receipts from the last two months, or any other document identifying its domicile; and
- Certificate of incorporation issued at the Public Registry and public deed of incorporation, if it corresponds.
Original documents have to be shown to the Tax Authority's representative taking care of the registration process.

The tax registration is granted in the same day. Nevertheless, the Tax Authority will perform a small audit (non tax) to verify within the next few weeks if the registration information that has been reported is valid. If not, the registration will be cancelled.

10.3. VAT Identification Number
The Tax ID number is the Taxpayer Registration Number (RUC) assigned by the Tax Authorities to each taxpayer. The Tax ID Number format consists of 11 numerical digits and it is automatically assigned by SUNAT.

10.4. Tax Authority
The Tax Administration National Superintendence ("Superintendencia Nacional de Administración Tributaria" - SUNAT) is the Tax Authority responsible for the administration of VAT.

SUNAT is entitled to perform audits to ensure tax compliance, by reviewing the taxpayers accounting records and tax returns as well. If assessments are raised up as a result of an audit, SUNAT is entitled to challenge unpaid taxes and impose the corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the invoicing regulations. In the regulations the format, size, expiration date and other mandatory information that invoices and receipts must meet for tax purposes are provided.

The following information must be included in the invoices:

- Supplier's name, address, place of establishment, tax identification number;
- Printed indication of the type of document (i.e., Invoice - “Factura”);
- Document number - serial and sequential number;
- Printer entity information: name, addresses, tax identification number and printing date;
- Printing Authorization number issued by the tax authority;
- Purchaser's name, address, place of establishment, tax identification number;
- Description of the sold goods or supplied services that are included on the invoice;
- Unit price for each sold item and service, tax amount and total amount invoiced;
- Other charges and taxes;
- Shipment or delivery document numbers; and
- Date of issuance.

Similar document such payment vouchers, receipts or tickets issued by cash registers, and others must comply with additional requirements.

Invoices or similar documents issued by non-residents are not required to fulfill these requirements for VAT purposes.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Tax rules allow taxpayers to take care of billing or to outsource this work to third parties (authorized printing works). Nevertheless, in any case the invoices have to be printed with the taxpayer’s information.

10.5.3. Electronic Invoicing
Electronic invoicing is allowed provided that the issuer has obtained the corresponding authorization from the Tax Authorities.

10.5.4. Other documents
Only suppliers are entitled to issue either a credit or debit note. These documents should be issued following the same requirements that are applicable to the invoice/receipt that will be amended, consigning an express reference to them.
Any adjustments to VAT will take effect in the period in which the credit or debit note is issued.

10.6. Credit notes and debit notes
Please, see section 10.5.4.

10.7. Books and Accounting Registers/Records
Taxpayers are required to keep the following books and accounting records, containing at least the information included in the Books and Registers Regulations: Cash Book, Balance Book, Journal, General Ledger, Purchase Book and Sales Book.

In addition, the following books and records shall be kept whenever required by the corresponding laws and regulations: Withholding Book, Fixed-Assets Books, and Perpetual Inventory Records.

The abovementioned books and records must be printed within a specific period of time in accordance to a calendar approved by the Tax Authority (SUNAT).

A public notary should authenticate books and accounting records before they are used. The certification must be posted at the front folio of the book.

Notwithstanding the above, taxpayers may voluntarily keep certain books electronically, provided that they comply with the requirements and formats established by SUNAT for such purposes. Likewise, SUNAT may issue resolutions establishing that certain taxpayers are obliged to keep books electronically.

10.7.1. Book-keeping
Books and registers should contain the following header information: • Corporate name;
• Book or record denomination;
• Period;
• Taxpayer registry identification.

Transactions should be registered in Spanish and in local currency, chronological or correlative, without any amendments or alterations, and in accordance to the General Accounting Plan approved in Peru.

In addition, amounts registered should be totalized at the end of every folio, column or account until obtaining the grand total of the period.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Tax related documents have to be stored during the same period of the statute of limitations.

10.8.2. Format of Archiving
There are no specific provisions on this topic.

10.8.3. Place of Archiving
There is no limitation regarding where documents have to be archived. However, documents should be archived within the Peruvian territory from a practical standpoint.

10.9. Supporting documentation
Persons liable to VAT are obliged to retain all the necessary information to support the nature and truthfulness of their transactions. Otherwise, Tax Authorities additional assessments may be levied during tax audits.

10.10. Tax period and VAT returns
The VAT return period is one month, which means that a taxpayer must file 12 VAT returns per year. VAT returns must be filed according to a tax calendar that is pre-established and approved by the tax authorities and which is also linked to taxpayers’ identification number. The returns have to be filed within a month following the end of the tax period to which it relates.

VAT return forms are issued by the tax authorities every year. These forms can either be filed through soft or hard copy.

10.11. Due date for payment of VAT
Any VAT due to the Tax Authorities should be paid at the same time as the monthly VAT return is filed.
10.12. Refunds of VAT
When the input credits exceed the output credits, the excess can be carried over to following periods as part of those periods' credits until they are exhausted. The excess inputs are not refunded to the business.

There are few special regimes applicable to exporters and to specific companies that entered into an investment agreement with the government or hold a mining or oil license.

In general terms, there is no VAT refund mechanism for non-established businesses, except for specific cases of VAT incurred in the Jungle region. Please refer to VAT Reimbursement for Jungle region within the Other Rules section below.

10.13. Additional Reporting (statements)
Statement of transactions with third parties (DAOT): This is a report that has to be submitted with the Tax Authorities by taxpayers that are appointed as “Principal Taxpayers” and are obliged to file at least a VAT tax return during the tax year, provided their total purchases or sales are approximately above USD 80,000. Exports, imports, services supplied by non-residents and supply of business property for private consumption do not have to be reported.

10.14. Other measures
Banking tax rules: Taxpayers that perform purchases that exceed USD 1,000 or S/3,500 are obliged to pay the provider using a banking payment method (e.g., checks, wire transfers, among others).

11. Auditing

11.1. Auditing
Tax Authorities are entitled to audit taxpayers within the statute of limitations period. During audits, Tax Authorities are entitled to review transactions and formal requirements. Where any assessment is raised, the taxpayer is entitled to either sign in agreement or appeal it. There is no specific schedule within the year to perform a tax audit and the Tax Authorities are entitled to review any of the open periods.

Audits are usually performed at the taxpayer's site. Nevertheless, taxpayers are also entitled to provide the Tax Authorities with documentation by sending it through mail to their offices.

11.2. E-Auditing
There are no specific provisions on this topic.

12. Penalties and risks for non-compliance

12.1. Penalties
Below are some of the penalties related to VAT:

- Penalty for failing to register for tax purposes: one tax unit (Tax Units amount roughly to USD 1,400)
- Penalty for underpaying taxes or reporting a VAT receivable in excess: 50% of unpaid taxes or incorrect tax credit.

There are many penalties imposed for tax infractions, such as keeping incorrect records or when no records are kept at all. There are no penalties for late payments; however, as noted below under section 12.2, interest will begin to accrue the day following the tax due date.

Penalties can be reduced where taxpayers proceed to amend their returns (subject to certain conditions). Furthermore, some events may originate to apply different tax penalties.

12.2. Interest on late payments
Where there is a late payment on either tax liabilities or penalties, such amounts will generate interest as from the following day in which the tax became due. As from March 2010, the interest applicable on late payments in local currency is 0.04% per day and 1.2% per month and on late payments in foreign currency 0.02% per day and 0.6% per month.

The interest rate can be changed by the Ministry of Economy and it is more likely to be changed at the beginning of the tax year (January 1st).
12.3. Joint Liability
There are no specific provisions on this topic.

13. Statute of Limitations

13.1. Recovery of VAT by the Tax Authority
The Tax Authority is entitled to audit and assess taxes according to the following:

- 4 years: Where the taxpayer has filed the corresponding tax return;
- 6 years: Where the taxpayer has not filed the corresponding tax return;
- 10 years: Related to withholding taxes, where the withholding agent withheld the taxes and did not pay such amounts to the Tax Authorities.

In any case, the statute of limitations begins from January 1st of the following year in which the tax return has been filed.

13.2. Recovery of VAT by the taxable person
Taxpayers have a period of 4 years to request refunds of overpaid VAT.

14. Rulings and Decisions

There are no case by case rulings for tax purposes in Peru.

Where there is a specific rule that needs clarifications, taxpayers may have access to a general ruling that will apply to all taxpayers. However, to request this general ruling a formal procedure has to be followed with the Tax Authorities and has to be referred through banking, commerce or other representative institutions.

Tax Authority’s decisions on audits or claims are not binding. In Peru, only the Tax Court’s decisions/rulings are binding. However, they are only binding when it is specified that they should be considered binding and certain formal requirements are met.

Moreover, decision/rulings of the Constitutional Court on tax matters can also be binding in specific instances.

15. Abuse of Law

15.1. Anti-avoidance and VAT fraud measures
As from August 2012, a general anti-avoidance rule (Provision XVI) was incorporated to the Tax Code. This new provision allows the Tax Administration to consider the acts, situations and economic activities performed, established or desired by the taxpayers, in order to determine the real nature (recharacterization) of the taxable event.

According to Provision XVI, when tax avoidance is detected based on criteria set out in the Tax Code, the Tax Administration is entitled to collect the tax debt and fines, reduce the amount of credit balance, tax losses, tax credits, or eliminate any tax advantage, and to recover any amount that may have been unduly reimbursed.

When the tax results that are more beneficial to the taxpayer are obtained through acts considered as artificial or improper and their utilization results in legal or economic effects (different from fiscal savings or tax advantages) equal or similar to the ones that would have been obtained with usual acts, the Tax Administration may apply the provision of the law that would have corresponded to the usual acts with its corresponding tax effects.

In the case of simulated acts, duly qualified by the Tax Administration, the corresponding tax provision of the law would be applied, considering the acts that are actually performed by the taxpayers.

16. Other Rules

16.1. VAT withholding regimes
Peru has three different tax withholding regimes with rates that fluctuate between 0.5% - 12%. These withholding regimes apply to specific transactions or when the Tax Authorities appoints persons liable to VAT as withholding agents.
This system is applicable to recipients of goods or services subject to VAT. Purchasers of goods and the user of services must withhold 6% of the price or fees invoiced where the price of the supply exceeds approximately USD 270. Withheld amounts can be recovered either as a credit or refund. Recipients of goods or services have to be expressly appointed as withholding agents by the Tax Authority.

16.1.1. VAT perception system:
This system is applied to the sale of certain goods within the country, such as mixed oil gas, carbon dioxide, among others. For this purpose, perception agents, which are previously appointed by the Tax Administration, have to withhold in advance an amount of the VAT that will be generated by its customers in future transactions with the goods. The perception rates are 0.5%, 1% and 2%.

This system is also applicable to the import of goods, where the Tax Administration acts as the perception agent. In this case, the withholding rates range between 3.5%, 5% and 10%.

Amounts subject to this perception regime can be recovered either as a credit or refund.

16.1.2. Tax Obligatory Payment System (SPOT)
This system is applicable to the sale of certain goods, construction contracts and the rendering of services subject to VAT (with some exceptions).

Sales of certain movable goods are subject to this system at rates ranging from 4% to 10%, depending on the goods. As from February 2013, the first sale of real estate property performed by the builder is also subject to SPOT at a 4% rate.

In case of construction contracts, the withholding rate is 5%, whereas in case of services the rates are 9% or 12%, depending on the service.

The recipient of goods or services must withhold the corresponding percentage from the price of the transaction when its consideration exceeds USD 270, approximately, and deposit it in the National Bank (Banco de la Nación) account of the supplier.

Withheld amounts can be recovered either as a credit or refund, provided certain specific rules are met.

16.2. Other regimes

16.2.1. Transfer pricing rules
As of August 2012, transfer pricing rules do not apply for VAT.

16.2.2. Rain forest regime
A special tax regime applies for businesses settled in the Amazon Rain Forest Zone, through the establishment of certain benefits foreseen both in the Law No. 27037 and the VAT Law and its regulations.

The benefits related to VAT established in Law No. 27037 are the following:

• VAT exemption on sales of goods, first real state, services and construction contracts performed within this region; and

• VAT exemption on import of goods for consumption within this region.

In order to access the benefits of the Law, certain conditions have to be met. However, since the government has started a benefit and exemptions elimination policy, these benefits have been reduced and remain in effect only for certain areas and for a certain period of time.

16.2.3. VAT Reimbursement for Jungle region
The VAT Law establishes an additional benefit consistent in the refund of the VAT paid on acquisitions of goods to non-residents in this region. The goods subject to the benefit will only be those detailed in the Appendix of the Cooperation Treaty entered into between Peru and Colombia.

Taxpayers must comply with specific requirements to be enabled for this regime. An application should be filed monthly regarding the total invoices of the period for which the benefit has been requested, once the VAT return corresponding to that period has been filed.

This benefit will not be applicable to the transactions involving goods that are considered similar or substitutes to those produced within the region, except when these are not enough to fulfill the needs of the region.
16.2.4. Free trade zones
Free Trade Zones are areas where a special tax regime has been established in order to promote exports.

Among the tax benefits granted to these zones, there is a VAT exemption that applies both to the acquisitions of goods and services performed by the Free Trade residents. The exemption will apply only when goods or services acquired are used in order to perform industrial and commercial activities within the free trade zone.

Transactions not performed by free trade zones residents will be subject to VAT.

In order to access these benefits, the resident must observe the following conditions:

- Qualify as free trade zones’ residents;
- Register at the Taxpayers Unique Registry; and
- Enter into a lease or any other type of agreement to use a physical space within the Free trade zones.

In addition, import of goods is VAT exempt; however, when the goods imported are brought outside the free trade zone, they will be subject to import VAT.

Sales of goods from any region of Peru to any free trade zone will be treated as an export.

16.2.5. VAT reimbursement for tourists
A new regime has been established in order to reimburse tourist on the VAT paid in Peru on the acquisition of certain goods.

The VAT refund applies only with respect to purchases made in establishments authorized by the Tax Administration for these purposes, provided that the sales price of each asset is not less than PEN 50 (USD 20, approximately). The minimum amount of VAT to be refunded is PEN 100 (USD 40, approximately).

The refund application must be submitted by the tourist upon leaving the country at the checkpoint enabled by the Tax Administration, which shall be resolved within sixty business days.
Peru
Useful contacts

Rudolf Roeder
Partner
Av. Santo Toribio No. 143, Piso 8
Lima 27, Perú
Tel.: +51 1 211 6501
Email: rudolf.roeder@pe.pwc.com

Daniela Comitre
Senior Manager
Av. Santo Toribio No. 143, Piso 8
Lima 27, Perú
Tel.: +51 1 211 6501
Email: daniela.comitre@pe.pwc.com
1. Scope

Effective on 1 January 1990, a Value Added Tax replaced the Purchase Tax and a wide range of other indirect taxes in Trinidad & Tobago. VAT is a destination-based tax on consumption. It applies to supplies of a wide range of goods and services within Trinidad & Tobago and on the importation of goods into Trinidad & Tobago. Exports from Trinidad & Tobago are subject to VAT but are taxed at a zero rate.

2. Taxable Persons

2.1. Definition

“Persons” liable for VAT are individuals, companies, unincorporated clubs or societies, joint ventures, trustees in trusts or estates, public or local authorities and partnerships that perform any business activities that fall within the scope of the VAT Act.

2.2. VAT Grouping

There are no VAT grouping provisions in Trinidad & Tobago.

3. Place of supply

3.1. Goods

Generally, the supply of goods is deemed to take place in Trinidad & Tobago when:

1. The supplier is a resident of Trinidad & Tobago; or

2. The supplier is not a resident of Trinidad & Tobago but the goods supplied are in Trinidad & Tobago at the time the supply takes place.

However, the supply will be regarded as taking place outside of Trinidad and Tobago (unless both parties agree otherwise) if:

- the supplier of the goods is not a resident of Trinidad & Tobago,
- is not, and is not otherwise required to be, VAT registered,
- the goods supplied are in Trinidad & Tobago at the time the supply takes place
- the recipient of the goods is registered for VAT and is acquiring those goods for the purpose of making a commercial supply.

3.2. Services

The supply of services is deemed to take place in Trinidad & Tobago when:

1. the supplier is a resident of Trinidad & Tobago; or

2. the services are physically performed in Trinidad & Tobago by a person who is in Trinidad & Tobago at the time the services are performed.

However, the supply will be regarded as taking place outside of Trinidad and Tobago (unless both parties agree otherwise) if:

- the supplier of the services is not a resident in Trinidad & Tobago,
- is not, and is not otherwise required to be, VAT registered,
- the services are physically performed in Trinidad & Tobago by someone who is present in Trinidad & Tobago at the time the supply takes place.
the recipient of the services is registered for VAT and is acquiring those services for the purpose of making a commercial supply

In case of international travel or international tours the supply is deemed to take place in Trinidad & Tobago if:

• the travel package is paid for in Trinidad & Tobago;
• the journey originates in Trinidad & Tobago; or
• the ticket is issued in Trinidad & Tobago.

4. Chargeable event, chargeability of tax

4.1. Goods and services
As a general rule, the chargeable event with respect to goods occurs when the earliest of the following events takes place:

• An invoice is given to the recipient;
• Payment is made for the supply; or
• The goods are made available to the recipient.

In cases of a hire purchase agreement, lease with an option to purchase, or agreement where the recipient has an option to return the goods to the supplier, the supply is deemed to take place when the goods are made available to the recipient.

4.2. Services
Rules noted above for the supply of goods, also apply to the supply of services.

Additionally, when services are supplied on an ongoing basis, the supply of services is deemed to take place when an invoice is given to the recipient of the services. When payments for services are periodically made (regardless if the services are continuous or not) and no invoice has been issued by the supplier, the supply of services is deemed to take place at the time the periodic payments are due or are made, whichever is earlier.

4.3. Imports
In case of importation of goods, the chargeable event is the entry of the goods into Trinidad & Tobago territory, i.e. when is crosses the customs point.

5. Taxable Amount

5.1. General Rule
As a general rule, the taxable amount is the total consideration (monies) paid for the goods and services. If the consideration is not wholly paid in monies then the value of the supply will be the open market value of the goods or services supplied. With respect to the importation of goods, VAT is usually accounted for on the CIF (cost, insurance and freight) customs value together with any customs duty and other taxes imposed/due on importation.

Please note, however, that gifts below TT$ 20 (roughly USD 3) given by businesses to customers, trade samples, securities, intellectual property and certain other supplies are not considered supplies of either goods or services and therefore, fall outside of the scope of VAT.

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency using the Central Bank of Trinidad and Tobago buying rate on the day on which the taxable event took place.

6. Rates

6.1. Standard Rate
The standard rate of VAT is 15%.

6.2. Increased Rate
There are no increased rates.
6.3. Reduced Rate
There are no reduced rates.

7. Exemptions

7.1. Exemption with no right to deduct input VAT
The following are examples of services that are treated as exempt (please refer to Schedule 1 of the VAT Act for a full list of exempt services):

- Medical, dental, hospital and paramedical services other than veterinary services;
- Bus and taxi services other than bus services supplied by the Public Transport Service Corporation;
- Training and educational services provided by the University of the West Indies, the Hugh Wooding Law School, public and private schools registered under the Education Act that have obtained approval from the relevant Minister;
- Real estate brokerage;
- Rental of residential property;
- Accommodation in hotels, inns, guest houses for any period in excess of thirty days; • Public postal services;
- Gambling and lotteries;
- Financial services as defined under the VAT Act; and
- Financial services provided by a licensed financial institution on which financial services tax is payable.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
Zero-rated supplies are prescribed in Schedule 2 of the VAT Act. The following are examples of the items treated as zero-rated:

- An extensive list of food items and non-alcoholic drinks;
- Prescription medication and certain other medical supplies;
- Water and sewerage services supplied by a public authority;
- The supply bus services provided by the Public Transport Services;
- The charter of ships or aircraft for use in international commercial services;
- Goods supplied to and within the Free Zone;
- Services supplied to a recipient not present in Trinidad and Tobago when the service is supplied and who pays in a foreign currency;
- Computers and related peripheral items;
- Goods supplied to a destination outside Trinidad and Tobago;
- New and used (not older than two years from date of manufacture) private or commercial motor vehicles manufactured to use Compressed Natural Gas (CNG)
- The following equipment to be used in the energy sector: Drilling rigs, drill ships, pipelay vessels and barges, anchor handling tugs in excess of 35 meters in length, geophysical survey vessels, heavy lift installation crane barges, oil skimming vessels, rig and platform supply vessels in excess of 60 meters in length, vessels used in bunkering in excess of 65,000 barrels (7,500 GTW (Gross Ton Weight), floating dry dock in excess of 1000 DWT for repair of anchor handling tugs and platform supply vessels.

8. Deductions

8.1. VAT recovery
VAT registered persons are allowed to offset against output VAT due in any VAT period input VAT incurred in that period to make commercial supplies.

The input VAT that may be offset is:
• All input VAT relating to commercial supplies if all the supplies made by the registered person in the VAT period are commercial supplies;
• When only a portion of the supplies produced are commercial supplies, generally the input tax allowable to be offset is the portion related to the production of the commercial supplies.

When a taxpayer does not make any taxable supply for a relevant period, the VAT authority may allow such input tax as it considers fair and reasonable. The VAT Act also allows a person intending to make taxable supplies to be registered for VAT and reclaim the input VAT incurred prior to start of his commercial activities (supply of goods or services).

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
The VAT Act requires any person who expects to make commercial supplies in Trinidad & Tobago in excess of the threshold of TT$200,000 (approximately US$32,000) in any 12-month period, to be registered for VAT. This registration threshold was increased to $360,000 (approximately US$57,000) with effect from February 29, 2012.

9.2. Registration for taxable person not established in the country
The VAT Act does not provide any registration mechanism for non-established businesses. However, a person who does not have a permanent establishment in Trinidad & Tobago and hence is not engaged in a trade or business in the country from a corporate tax standpoint may still be required to register for VAT if, in accordance with the provisions of the VAT Act, such person is making taxable supplies within Trinidad & Tobago.

9.3. Application Procedure
The procedure for VAT Registration in Trinidad & Tobago is as follows:

• Complete the relevant sections of the VAT registration forms (VAT 1 & 2 Forms), which are to be signed and dated by a director or all of the directors as may be required;
• Submit the completed forms and the supporting documentation to the VAT authority, such as: incorporation documents, cash flow statement, evidence of commercial activity and a letter evidencing the assignment of a Board of Inland Revenue (BIR) number, if applicable;
• The VAT Act now requires the applicant to be registered within one working day after receipt of the application and other supporting documents required to the satisfaction of the tax authority and a VAT certificate is issued thereafter.

9.4. VAT Registration: Simplification
There are no simplification rules for VAT registration in Trinidad & Tobago.

9.5. Alternative procedures for non-established taxable persons
There are no alternative registration procedures for non-resident persons in Trinidad and Tobago.

9.6. Exemption from the requirement to register
A person who does not intend to make commercial supplies of TT$200,000 (or $360,000 post February 28, 2012) or more in a 12 month period is not required to be registered for VAT. However, a person, whether resident or non-resident, making commercial supplies within Trinidad & Tobago in excess of the TT$200,000 ($360,000) threshold is required to register for VAT.

9.7. Joint Liability
Partners of a partnership, members of a joint venture and trustees of a trust are jointly liable for the VAT liabilities of the partnership, joint venture or trust, respectively.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier of goods or services is the person who is liable to charge and account for VAT on transactions. The importer is the person liable for VAT on importation, but that term is broadly defined and in essence includes anyone with an interest in the imported goods.
10.2. Registration

10.3. VAT Identification Number
Upon registration, a VAT Certificate is issued to the registered person. The VAT Certificate provides a six-digit VAT Identification Number for the registered person. Example: 012345

10.4. Tax authority
The Board of Inland Revenue, a Division of the Ministry of Finance of the Government of Trinidad & Tobago, is the Tax authority responsible for the administration of VAT. The Customs and Excise Division of the Ministry of Finance is the collector of VAT on importation.

10.5. Invoicing

10.5.1. Valid Invoice
A VAT invoice must be issued by a VAT supplier who makes a supply which exceeds $20. This does not apply to cinemas, fast food outlets and gas stations which need not issue an invoice unless requested to do so.

Although in certain circumstances a supplier may issue a simple invoice, a standard invoice, which is required for an input VAT claim, must contain:

- The words “Tax Invoice”;
- An identifying serial number and the date on which the invoice was issued; • Supplier information: Complete name, address and VAT registration number;
- Customer information: Complete name and address of the recipient;
- A description of the goods and/or services supplied, including the quantity of goods or type of services supplied/provided;
- The amount paid/charged for the goods and/or services;
- The value of the goods/services;
- The rate and amount of VAT applicable; and
- The total value of the invoice including VAT.

10.5.2. Issuance of Valid Invoice - Outsourcing and self billing
Outsourcing and self-billing are not addressed in the Act.

10.5.3. Electronic Invoicing
There is no provision that expressly allows e-invoicing. However, in practice, electronic copies of invoices may be used in order to facilitate expeditious settlement of invoices. Original copies of the invoices are still generally required to be maintained for record keeping purposes and as documentary support required in the event of an audit conducted by the VAT authority.

10.6. Credit notes and debit notes
When a supply is cancelled the consideration for the supply is altered, or the goods or services are returned to the supplier, the recipient should be given a debit or credit note as the case requires. Such notes should be marked debit or credit, and should contain similar information to that required for a tax invoice.

10.7. Books and Accounting Registers/Records
A VAT registered person is required to maintain proper books and records in TT dollars, including tax invoices and a VAT account

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Unless otherwise notified, a person whether or not he continues to be registered, is required to retain books and records for a period of not less than six years after the end of the tax period to which they are related.
10.8.2. Format of Archiving
VAT taxpayers are required to keep proper books and records in English language, expressed in TT dollars and in such a form that would enable the tax authority to determine the VAT liability of the VAT registered persons. In practice, the archive is usually a physical storage of hard copies.

10.8.3. Place of Archiving
VAT taxpayers are required to keep proper books and records at their principal place of business in Trinidad & Tobago or at another location as may be approved by the tax authority.

10.9. Supporting documentation
VAT on supplies and expenses should be supported by proper documentation including proper tax invoices. Documentation required to support VAT on imports includes VAT assessment forms referred to as VAT 401 forms.

10.10. Tax period and VAT returns
The standard tax period is bi-monthly or every two months. VAT taxpayers are required to file a return and pay the VAT due for each two-month period. Returns must be filed by the 25th day of the month following the end of the VAT period to which they relate.

With respect to filing periods, there are three categories:

- **Category A**: tax periods ending the last day of January, March, May, July, September and November.
- **Category B**: tax periods ending the last day of February, April, June, August, October and December.
- **Category C**: other tax periods as assigned by the VAT authority (usually monthly).

10.11. Due Date for payment of VAT
VAT is due and payable within 25 days of the end of the VAT period to which it relates.

10.12. Refunds of VAT
VAT registered persons can obtain a refund where input VAT exceeds output VAT for the VAT period. The VAT authority seeks to issue refunds within six months of receipt of the return in which the refund is claimed. No mechanism exists for recovery of VAT incurred by an unregistered non-resident person.

10.13. Additional Reporting (statements)
There are no additional requirements per se. However, an application for cancellation of VAT registration must be filed by persons who cease trading or who are no longer producing commercial supplies above the TT$200,000 threshold (roughly USD 32,000), ($360,000 effective February 29, 2012).

11. Auditing

11.1. Auditing
The Tax Authority may conduct an audit assessment on the books and records of the VAT registered person.

If the tax authority raises a VAT assessment with which the VAT registered person does not agree that person has a period of 15 days from the date of receipt of the assessment to file an objection. Such an objection will only be valid if the VAT registered person:

- Pays the assessed tax; or
- Submits security for the tax assessed with the approval of the Tax Authority; or
- Secures a waiver of the obligation to pay

Thereafter, the Tax Authority has 6 months to make a decision. Failure on the part of the Tax Authority to make such decision within the time stated will result in the objection being determined in favour of the taxpayer.

If the VAT registered person is aggrieved with the decision of the Tax Authority, that person may appeal to the Tax Appeal Board.
11.2. E-Auditing
There are no e-Auditing provisions within the Trinidad & Tobago tax legislation.

12. Penalties and risks for non-compliance

12.1. Penalties
Failure to file a VAT return by the due date attracts a penalty of TT$300 (US$48) or TT$500 (roughly USD 80).

Failure to remit the VAT payable under a return or as assessed by the due date will result in a penalty of 8% of the amount outstanding plus interest (see below).

12.2. Interest on late payments
Late payment of VAT also results in the imposition of interest at a rate of 2% per month or part thereof from the due date to the day of payment.

12.3. Joint Liability
Partners of a partnership, members of a joint venture and trustees of a trust are jointly liable for the VAT liabilities of the partnership, joint venture or trust respectively.

13. Statute of Limitations

13.1. Recovery of VAT by the tax authority
Generally, the tax authority may initiate a VAT assessment within six years of the end of the tax period to which the assessment relates.

When a person neglects or refuses to pay VAT, the tax Authority may confiscate and sell the defaulting taxpayer’s goods and other property.

Where the tax authority has enough reason to believe that a person liable for VAT may leave Trinidad & Tobago, the tax authority may serve a notice of assessment demanding the payment of any VAT due. The person is then required to pay immediately, or, if the tax authority approves, give security for the tax.

Additionally, the tax authorities may recover the tax through civil proceedings.

13.2. Recovery of VAT by the taxable person
A VAT registered person, who is liable to account for VAT on commercial supplies he/it makes, may recover that VAT from the persons to whom he/it makes those supplies. He/it may also recover as a refund from the Tax Authority any excess of input VAT incurred over output VAT due for the VAT period.

Certain specified unregistered persons may apply to the Tax Authority to recover VAT which they incur. These include diplomats and fishermen in respect of his fishing equipment.

14. Rulings and Decisions

14.1. Rulings
The tax authority is allowed to regulate its own procedure and in so doing, may make pronouncements on any areas of the law governing the administration of VAT. However, these rulings are not binding.

14.2. Decisions
Decisions by the VAT authorities are binding unless overruled by a Superior Court of Records.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures
A person who without lawful reason fails to comply with the provisions of the VAT Act or who knowingly provides any material information that is false or misleading is liable under summary conviction for a fine of TT$ 15,000 (roughly USD 2,400) and one year imprisonment.

The tax authority may require any person, except a person engaged in a confidential professional relationship with the VAT registered person, to provide information in such a manner and detail as the tax authority may
require with respect to the income or assessment of the taxpayer. The tax authority may also allow an authorized person to audit any record of monies, funds or other assets held by a VAT registered person on his own behalf or due to another person.

Additionally, for the purposes of an appeal against an assessment, the tax authority may by writing require Banks or their officers to provide relevant information or statements in writing or summon the officer to appear before them to give evidence with respect to the assessment.

16. Other Rules

16.1. VAT withholding regimes
An insurance company which is liable to make an indemnity payment to a VAT registered person is required to withhold VAT from that payment and remit that VAT to the Tax Authority on account of the recipient of the indemnity payment.
Trinidad & Tobago
Useful contacts

Allyson West
Tax Partner
11-13 Victoria Avenue
Port of Spain, Trinidad
Tel.: +1868299-0700
Email: allyson.west@tt.pwc.com

Keith Robinson
Director of Tax Services
11-13 Victoria Avenue
Port of Spain, Trinidad
Tel.: +18682000700
Email: keith.robinson@tt.pwc.com
1. Scope

1.1. Application of tax
Value Added Tax is not imposed in the United States. Sale and Use Taxes (SUT) are generally imposed instead at the retail level only. The first state sales tax was imposed in Mississippi in 1932.

This chapter intends only to highlight some common features of most U.S. state sales and use tax regimes. Every state’s sales and use tax laws differ somewhat, and the laws are subject to amendment frequently. Please consult the appropriate state law for state-specific treatment.

Sales and use taxes are imposed in 45 states and the District of Columbia. Most of these states allow a so-called “local option,” where jurisdictions such as cities and counties can impose an additional percentage onto the state-level tax and keep the related revenues.

As such, there are thousands of sales tax jurisdictions throughout the country.

1.2. Sales Tax and Use Tax
A sales tax is generally a tax applied to the retail sale of tangible personal property and certain specifically enumerated services. Although the form of the tax may vary,

it usually is imposed either directly upon the retail sale of the taxable item, the gross receipts from the sales of taxable items, or the person engaged in the business of making retail sales of taxable items.

Property or services subject to the tax vary from state to state. Generally, sales taxes are applicable to sales of tangible personal property (unless a specific exemption applies) and not services (unless a service is specifically enumerated as taxable by a state), but the current trend is for states to include services or to broaden the range of services currently subject to tax. Some states impose a selective sales tax on certain services or transactions. For example, Illinois imposes a special telecommunications excise tax, which is essentially a sales tax. Other jurisdictions may tax specific transactions such as the Phoenix, Arizona surtax on airport-based car rentals.

The different types of sales taxes can be broken down into four categories:

• Seller Privilege Tax - A sales tax imposed on the privilege of selling tangible personal property within the state or jurisdiction.

• Consumer Sales Tax - A tax on the consumption or purchase of tangible personal property or services in the state or jurisdiction. The tax generally is collected by the seller and remitted to the state; however, if the supplier fails to collect the tax, the user is obligated to remit the Use Tax directly to the tax authority (see more about Use Tax below). States can also hold the seller liable for sales taxes that it has failed to collect.

• Transaction Tax - A tax on a transaction (sale) involving tangible personal property and services in the state. The tax remains a debt of the seller until the seller remits the tax to the state.

• Gross Receipts Tax - A tax on the gross receipts of a business in the state. It is based on a general assumption that the seller has been granted the privilege to transact its business in the state.

The U.S. (federal) Constitution places limits on a states’ authority to impose tax on non-residents. Thus, a state could not impose its Sales or Use Tax on tangible personal property delivered outside of the state for use or consumption outside of the state; however, if property is purchased out of state, but used in the state, the state may impose a Use Tax.

The Use Tax complements the Sales Tax; it typically is assessed on purchases made out of state and brought into the jurisdiction for use, storage, or consumption in the state. It is also levied when a supplier fails to collect a Consumer Sales Tax. Use Tax may be imposed on materials converted from resale inventory to internally-used property.

The primary purpose of the Use Tax is to protect in-state merchants who, absent the Use Tax, theoretically would be at a competitive disadvantage to out-of-state sellers making sales to instate customers. This is due to
the inability of the taxing state to impose its Sales Tax on such out-of-state sales. Without the Use Tax, customers simply could purchase items out-of-state and transfer the items into their home state tax-free.

2. Taxable Transactions

2.1. Goods

2.1.1. Tangible Personal Property and certain Services
Sales Taxes are imposed on the retail sale of tangible personal property. In most states, and in contrast with the treatment of tangible personal property, services are generally exempt unless specifically enumerated as taxable. However, in some states, all transactions, including services, are presumed to be taxable unless otherwise provided.

In general, states define tangible personal property as property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. As opposed to real property, tangible personal property can be moved and if attached to real property, removed without damage to the underlying property.

At times, states include certain unique items in the definition of tangible personal property. By way of example, Kentucky defines tangible personal property as “property that may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses, regardless of the method of delivery, and includes natural, artificial and mixed gas, electricity, water, steam, and prewritten computer software.”

While electricity and steam are certainly perceptible to the senses, not many would consider them to be tangible, as the term is commonly understood.

Like Kentucky, most states include pre-written (i.e., canned) software programs in the definition of tangible personal property; however, the tax treatment of such programs may differ depending on whether a purchaser receives the program in a tangible (e.g., disc) or intangible (e.g., electronic download) medium.

States generally treat custom computer software programs as intangibles and exclude them from the definition of tangible personal property, regardless how it was delivered to the consumer; however, a state may question how a seller categorizes its sales of canned versus custom programs (i.e., just how “custom” is a program) to qualify as exempt custom software. A growing number of states have added custom programs to the list of taxable property, or impose tax on services associated with customizing software. For example, Arkansas, Mississippi, and Nebraska tax custom software as tangible personal property.

2.2. Sales Tax Grouping
Historically, states have taken a rather limited approach to taxing services. In fact, most states tax relatively few services (although this is changing). Some of the common taxable services include:

- data processing;
- installation;
- repairs to tangible personal property;
- dry cleaning, laundry and alterations;
- telephone and telegraph, cable television and utility services; and
- amusement and recreation services.

In recent years, states have been expanding the scope of taxable transactions to include more services. Reasons for this policy change include:

- the nature of the U.S. economy has shifted from a manufacturing to a service orientation;
- the need for increased revenues has pushed the states to consider alternative tax sources; and
- the impact of the Internet on all commerce.

Please be aware that states have different rules governing the taxation of services.

2.2.1. Mixed or Bundled Transactions
Some transactions consist of sales of both tangible personal property and services. These sales are known as mixed or bundled transactions. State tax treatment of such transactions varies.
Most states will tax both service and property elements if a single lump-sum amount is stated on the invoice or sales contract. Generally, invoices must separately state taxable items from nontaxable items to avoid this situation. Some States, however, will allow vendors to avoid charging tax on the nontaxable components of the charge if they can be identified in the vendor’s books and records.

Additionally, there are other instances when an apparent lump-sum charge is not an issue:

• when the value of the medium of transfer is inconsequential to the value of the service performed (for example, a computer disk containing custom software); and

• when the “true object” of the contract was to receive non-taxable professional services and not taxable personal property (for example, copies of tax returns).

The true object (i.e., the real object the purchaser seeks in making the purchase) is determined by the essentials of the transaction. The true object of the transaction is tangible personal property if the:

• purchaser desires and uses the property;

• property is not merely a disposable conduit for the service;

• property is a finished product; or

• property is not separable from the service.

The true object of the transaction is a service if the property is merely the medium of transmission for the service and can be discarded after the purchaser has obtained access to the service. Examples:

• for shipping, handling, gratuities, and similar charges, the entire sale price is taxable if the purchaser is required to pay for the service as part of the sale price of property, but if the purchaser is not required to pay the service charge, the service is not taxable if separately stated;

• for repair and personal services, the service is not taxable if separately stated from the property, or if the service is not separately stated but the retail price of the property is de minimus to the total sales price. Some states have set percentages.

For all other transactions, the service is taxable if the true object of the transaction is actually the property purchased. However, in many instances, even if the true object of the transaction is the service purchased, the entire transaction is still taxable unless the tangible personal property is separately stated.

Note that not every state uses the true object test to determine the nature of transactions.

2.3. Imports
The U.S. Constitution prohibits states from levying taxes or duties on imports or exports without the consent of Congress. However, many states feel that this does not prevent them from taxing imports. For example, in California sales tax applies to sales of property imported into this state from another country when the sale occurs after the process of importation has ceased. Please refer to the relevant state laws on this subject and several states’ laws are similar to California’s.

3. Taxable Persons

3.1. Definition
Generally, the purchaser is liable for the tax and the seller becomes the agent of the State in collecting the tax. For instance, the New Jersey state sales tax is imposed on the consumer, but is collected by the seller or other person designated with the responsibility for collecting the tax. With respect to the Use Tax, primary reporting and payment responsibility is on the user of the property or service and is remitted for purchases for which no sales tax has been collected. However, even though the incidence of tax is on the purchaser, in many states, if the seller has nexus with a state (even if the seller does not realize that it has nexus), and fails to collect the tax, most states will hold the seller liable for the uncollected tax. In addition, the state may enter into an agreement (before or after the fact) with an out-of-state seller to collect the tax.

3.2. Sales Tax Grouping
This concept or similar tax grouping is not applicable for Sales and Use Tax.
4. Place of Supply

4.1. Goods
Generally, Sales Tax is a destination tax. As such, the State in which the property is physically transferred to the purchaser is the State that has the right to tax the sale. Use Tax applies to where the property is used or consumed if no sales tax was assessed. Some states use destination sourcing for sales coming into the state, but origin based sourcing for sales made in state.

4.2. Services
For the taxation of services, the State in which the service is performed is generally the State that taxes the service; however, this is not a universal rule.

4.3. Supply of services by non-residents
A service that is taxable in a State remains taxable regardless of the domicile of the service provider. Note, however, that only providers with nexus in the State can be required to register and collect tax.

5. Chargeable event, chargeability of tax

5.1. Goods
Most often, the tax is assessed at the time of a retail sale, or more broadly, when the ultimate consumer of the goods makes a purchase. The tax falls upon a completed sale, which is determined by the jurisdiction where the purchaser takes title and/or possession of the property. In most States, possession need not be taken nor payment received before the Sales/Use Tax is assessed.

Use Tax is triggered when property purchased from an out-of-state supplier is brought or shipped by the seller or the purchaser into the State.

5.2. Services
The chargeable event for taxable services is when the service is performed.

5.3. Imports
This subject is not applicable.

6. Taxable Amount

6.1. General Rule
Sales or Use Tax is measured by the sales price paid or gross receipts received for the transfer of taxable property or services. States that impose the tax on the consumer but require the seller to collect and remit the tax usually refer to the measure of tax as the “sales price.” States that impose the incidence of Sales Tax on the retailer or supplier generally impose the tax on the retailer’s “gross receipts.”

In general, “sales price” means the value, in terms of money, whether or not received, at which the seller transfers property or services (including leases or rentals) to a purchaser with few deductions. As a measure of tax, “gross receipts” is generally broader and more inclusive than the term “sales price.” Gross receipts may include charges for services and other costs associated with a particular sale that would not be included in the “sales price.” Note, however, that many States that impose a traditional Sales Tax will treat the term “gross receipts” as being essentially synonymous with “sales price.”

Sales price is generally computed without deduction for any of the following (this varies by State):

- the cost of sales, including direct labor and materials;
- shipping or transportation, unless separately stated on the invoice;
- services associated with the sale, unless separately stated;
- interest paid and losses incurred in producing the good;
- cash deposits received prior to completing the exchange; or
- credits for trade-ins.
- Generally, Sales Taxes must be separately stated from the sales price on the transaction receipt.
Many states allow reductions from the retail sales price for the following items:

- discounts taken, including early payment discounts, coupons, or “frequent purchaser” discount cards;
- the sales price of property sold but later returned and credited to the purchaser’s account;
- local sales tax;
- separately stated charges for delivery, installation, etc.; or
- fees imposed as penalties that were not a part of the original consideration, (e.g., a late fee for the tardy return of a rental video).

Twenty-eight of the States that impose a Sales Tax recognize the role of the retailer in assisting the State with its tax collection function by allowing some form of collection discount, or supplier’s allowance. By doing so, these States allow the retailer to retain a portion of the Sales and Use Tax collected as compensation for its role in timely collecting and remitting the tax due. The amount of this compensation varies greatly, however.

Over half of the States that provide a supplier’s allowance impose some sort of cap on the amount of compensation, usually based on an absolute dollar amount.

Further, many States significantly lower the rate of compensation as the amount of taxable sales or tax collected rises. For example, New York allows a credit equal to 3.5% of the tax due, but caps the discount at USD 150 per quarterly period. As an example on the other end of the spectrum, Colorado allows an open-ended allowance of 3.33% of the tax due.

States might also allow credits for taxes paid in another State, purchases in designated enterprise zones, or for purchases on certain items (for example, Illinois manufacturer’s purchase credit; Indiana for certain fuels).

Some States allow deductions for taxes that have been remitted on accounts that have been found to be worthless; these deductions are often limited to worthless accounts and are taken as a bad debt deduction for income tax purposes. Other States allow credits for worthless accounts.

6.2. Exchange Rule
There are no specific provisions on this topic.

6.3. Rounding Rules
Historically, states use a flat rate in determining sales taxes with many states allowing cities and municipalities to impose an additional flat rate amount. Some states allow local jurisdiction taxes to be remitted on the state sales tax return while in other states, individual returns must be filed with each jurisdiction in addition to the state return.

7. Rates

7.1. Standard Rate
State sales tax rates range from 2.9% to 8.25%. Additional local taxes may apply, depending on the municipality.

7.2. Reduced Rate
States may impose reduced rates depending on type of transaction, purchaser, or seller.

7.3. Increased Rate
Generally, State Sales and Use Tax rates are uniform (though reduced rates may apply, see above); however, note that depending on the locality an additional local tax may apply.

8. Exemptions

Exemptions can be based on the nature of the product, the type of the transaction, the intended use of the product, or the nature of the entity buying or selling the product.

In addition, exemptions may apply to encourage economic development in a State or for other targeted reasons. Typically, States require purchasers to provide the supplier with an exemption certificate indicating that the purchaser of the property or service is exempt from tax. The requirements for what needs to be on an exemption certificate differ depending on the State. The Multistate Tax Commission (MTC) has created
Uniform Sales and Use Tax Certificate, for use in multijurisdictional transactions, which is accepted in several States.

The following provides a basic overview of some of the more common exemption provisions.

8.1. Product Exemptions
Product exemptions may be one of the most diverse and challenging exemptions for sellers. The most common product exemption is food, which can be either entirely exempt or taxed at a lower rate. In general, where an exemption applies to sales of food, such exemption does not include prepared foods (e.g., foods purchased for immediate consumption) or snack-type foods. Other commonly exempt products include prescription drugs and medical equipment.

8.2. Transaction Exemptions
The sale for resale exemption is the most common transactional exemption. As the name implies, the purchaser must purchase the item with the intent to resell the item purchased or for inclusion in another item for sale. Generally, items purchased for subsequent lease also qualify for the resale exemption. If the purchaser does not resell the product for which a resale exemption was claimed, the purchaser must self assess and remit Use Tax on the purchase price of the products used.

Most States have an occasional sale exemption, which is also known as a casual, isolated, or bulk sale exemption. This exemption allows for nonrecurring or unusual sales transactions (e.g., the one-time sale of the operating assets of an entire division), to be sold exempt from tax. Taxpayers must exercise caution in applying this exemption because some States narrowly define the types of sales that qualify.

In addition, a number of States impose stringent reporting obligations on the purchaser as a way to ensure that the seller pays outstanding obligations to the State before ceasing operations and selling its business assets.

8.3. Intended Use Exemptions
Most States provide an exemption for the purchase of items used directly in manufacturing, processing, assembling, or refining and for materials that become a component part of the item that results from such activities. State laws differ as to the types of purchases that qualify for exemption, which may include machinery, equipment, utilities, fuel, replacement parts, repairs, and inputs, including raw materials, chemicals, and other components. In addition, State laws differ in how narrowly they define “used directly” or “component part.” States also may limit the exemption to purchases for use in new or expanding facilities, or impose a preferential tax rate on qualifying purchases.

Specific rules may apply to certain industries, such as construction or government contractors, who are often considered “consumers” of the tangible personal property and services they purchase for use in performing a contract. Therefore, their purchases of construction materials generally are subject to Sales or Use Tax, unless another exemption applies.

A number of States provide an exemption for the purchase of equipment used to provide taxable services, such as telecommunications or broadcasting services. In general, the intended use exemption attempts to ensure that Sales and Use Tax is imposed only on the final consumer, and that all the goods and services used to produce that item sold to the final consumer are exempt from tax.

The purchase of tangible personal property used in research and development activities is exempt in a number of States. In general, the exemption is limited to tangible personal property used or consumed in experimental or laboratory type research and development and does not include ordinary testing or inspection of materials.

8.4. Exempt Entities
All States exempt direct purchases by the federal government. In addition, most States exempt purchases by State and local governments, as well as religious, charitable, or educational entities. One note of caution -- just because an organization qualifies as an exempt organization for Federal and State Income Tax purposes, does not mean it automatically qualifies for a Sales Tax exemption on its purchases. Often, to the extent an exemption applies, it may be limited to purchases made solely for the purpose of funding exempt activities.

8.5. Miscellaneous Exemptions
Newspapers and periodicals are exempt in some States; however, these exemptions are often very narrow, with specific definitional, circulation, and news requirements. For example, “Pennysavers” or other advertising flyers that do not contain a certain percentage of “news” often are subject to tax. Another common exemption applies to purchases of property for use in specific geographic areas within a State, such as a designated
enterprise zone. This type of partial or complete exemption is designed to offer tax incentives to businesses to locate or expand operations in specific areas, thereby creating an influx of jobs and stimulating capital investment.

Some States have brief periods of the year known as “sales tax holidays” where certain types of property (e.g., school supplies or hurricane supplies) up to a limited amount are exempt from tax to help residents prepare for important events.

8.6. Exemption with no right to deduct input credits
This subject is not applicable.

8.7. Exemption with right to deduct input credits
Since Sales and Use Taxes do not work on a credit-base system, there is no right to deduct Sales and Use Tax paid on purchases related to taxable sales.

9. Deductions

9.1. Sales and Use Tax Recovery
This subject is not applicable.

10. Person liable to pay sales and use tax - out of state taxable persons

10.1. Sales and Use Tax Liabilities
Generally, all persons with nexus who make taxable sales in a State must register as a supplier, regardless of their domicile.

There are generally no Sales and Use Tax registration thresholds.

10.2. Registration for taxable person not established in the country
Some states require foreign entities without permanent establishment for federal income tax purposes to register for sales and use taxes if nexus thresholds are met.

10.3. Application Procedure
There are no specific provisions on this topic.

10.4. SUT Registration: Simplification
There are no specific provisions on this topic.

10.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

10.6. Exemption from the requirement to register
There are no specific provisions on this topic.

10.7. Joint Liability
There are no specific provisions on this topic.

11. SUT Compliance (Obligations under the internal system)

11.1. Persons Liable to account for SUT
Under the U.S. Constitution, only sellers with nexus in a State may be required to collect State Taxes. Sellers should note that not all state nexus standards are the same; though such standards must be Constitutional. It is important to note that several States define an in-state retailer or supplier as one who has agents or affiliates acting in a State on its behalf. In addition, having a in-state website with links to a seller’s website can create nexus for the out of state seller in many states.

Sellers should review the laws in all States to ascertain whether registration is required.

For example, Alabama requires a collection responsibility for sellers that employ or contract with any representative, agent, salesman, canvasser, solicitor or installer operating in Alabama under its authority or its subsidiary to sell, deliver or take orders for the sale of taxable tangible personal property or services, or
otherwise solicits and receive purchases or orders by any agent or salesman. Other States have different standards regarding registration.

11.2. Registration:
Generally, persons required to collect the tax in a State must register with that individual State. Registration requirements for the States differ. For example, under Georgia law, “[e]very person desiring to engage in or conduct business as a seller or dealer in the State must file an application for a certificate of registration with the Commissioner for each place of business.”

Each Member State of the Streamlined Sales Tax Governing Board (presently 23 states) participates in an online Sales and Use Tax registration system in cooperation with the other Member States. Under this system: a seller registering under the Agreement is registered in each of the Member States; the Member States agree not to require the payment of any registration fees or other charges for a seller to register in a State in which the seller has no legal requirement to register; a written signature from the seller is not required; an agent may register a seller under uniform procedures adopted by the Member States; a seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper States any taxes collected.

11.3. Direct Payments
Although, generally, the seller, retailer, or supplier, collects the tax from the purchaser and remits it to the State Tax Authority, there are times that purchasers may self assess Use Tax and remit the tax directly to the State. This relieves the retailer, seller, or supplier from its collection responsibility. To do this, the purchaser has to present the seller with a direct payment permit. Requirements regarding who can use a direct payment permit vary among the States.

For instance, in New York, the following conditions must exist in order for a purchaser to be permitted to use a direct payment permit:

- it must be impossible to determine the manner in which the property or services will be used at the time tangible personal property or services are acquired by a purchaser;
- the purchaser must be a registered supplier; and
- the purchaser must have timely filed all required returns and timely paid all taxes due for the four quarterly periods immediately prior to the submission of an application for a direct payment permit.

11.4. Tax authority
Sales and Use Taxes are usually administered by the State’s Tax Authority or Department Most State Tax Authorities are called the Department of Revenue or Department of Taxation. In California, the Sales Tax is administered by the State Board of Equalization.

11.5. Invoicing

11.5.1. Valid Invoice
A valid invoice generally sets out all the components of a sale, including price, quantity, separate charges (such as delivery), and tax as it applies to each component of the transaction. Nontaxable components of sales are also usually separately stated on an invoice.

State requirements for a valid invoice vary; however, an invoice is not a prerequisite for sales and use tax collection.

Some states require certain language to be included on invoices in states in which the retailer does not have a collection responsibility. The language generally details the purchaser’s use tax liabilities since the retailer is not charging sales tax on the invoice.

11.5.2. Issuance of Valid Invoice - Outsourcing and self billing
In addition to the use of third-party automated systems used by a taxpayer, some States allow the use of third-party service providers to entirely outsource the compliance function. This permission is limited to a small number of streamlined sales tax participants.

11.5.3. Electronic Invoicing
Participants in a transaction may elect to use electronic, rather than paper invoices; however, this matter is rarely presented in State Law.
11.6. Credit notes and debit notes
There are no specific provisions on this topic.

11.7. Books and Accounting Registers/Records
Each State has different requirements on maintaining records. Taxpayers need to research a particular State law for the exact requirements. For example:

In California, the State Board of Equalization required taxpayers to keep records; books and papers open for inspection at any time by the board or its duly authorized agents.

The records must show: 1) normal books of account ordinarily maintained by the average prudent business person engaged in the activity; 2) bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account; and 3) schedules or working papers used in connection with the preparation of tax returns. Florida requires taxpayers to keep a complete record of all transactions, together with invoices, bills of lading, gross receipts, from sales, resale certificates, consumer exemption certificates, and other pertinent records and papers reasonably needed for the administration of the tax, and such books of account as are necessary to determine the amount of tax due.

New York requires every person that must collect tax to keep records of every sale, of all amounts paid, and the tax due on the sale. The records must include a true copy of each sales slip, invoice, receipt, statement or memorandum which requires that the tax be separately stated.

11.8. Retention of and access to: books, registers, records and invoices

11.8.1. Retention Period
The record retention period varies among the States. Please consult State Law for State specific requirements.

Florida and New York have a three year record-retention requirement. California has a four year record-retention requirement

11.8.2. Format of Archiving
Archiving requirements vary among the States. Please consult State Law for State specific requirements. Many States allow for files to be maintained electronically.

11.8.3. Place of Archiving
See above.

11.9. Supporting documentation
The requirements of what documents need to be maintained vary by States.

11.10. Tax period and returns
These requirements vary among the State. Please consult with State specific requirements.

Most States require that taxes be remitted to the State monthly, quarterly, semiannually, or annually, based on the seller’s receipts from the tax period. Many States require that returns be filed, and payments be remitted, electronically. Again, the requirements among the States vary.

For example, in Florida, suppliers must file monthly returns by the 20th of each month, reporting sales for the prior month. Nevertheless, the Department may require:

• A quarterly return when the tax remitted by the dealer for the preceding four calendar quarters did not exceed USD 1,000;
• a quarterly return and monthly payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded USD 1,000 but did not exceed USD 12,000;
• a semiannual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed USD 500; and
• an annual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed USD 100.

11.11. Due Date for payment of SUT
These requirements vary among the States. Please consult State specific requirements.
Payments are generally due when returns are due.

11.12. Refunds of SUT
Please note that SUT is not a credit-based tax; however States will generally provide a refund or credit of Sales and Use Taxes remitted to the State if the State was not entitled to the funds (e.g., overpayment). State procedural requirements vary; some States require customers to seek refunds from the charging vendors, while other States allow customers to pursue refunds directly with the State. Please refer to the particular State Law for the State specific requirements.

12. Auditing

12.1. Auditing
The respective State Tax Departments conduct audits on a varying basis.

13. Penalties and risks for non-compliance

13.1. Penalties
Penalties are imposed by States for failing to timely file returns or remit payments, for underpaying the amount of tax due, and for other violations of the tax law. The penalties vary depending on the State. The amount usually involves a certain percentage of the deficiency or of the amount that should have been shown on a return that was not filed.

Other penalties are imposed for more serious violations, such as fraud. Many State Tax Departments are empowered to waive penalties upon a showing of good cause. Please refer to the particular State Law for an explanation of State-specific penalties.

13.2. Interest on late payments
In addition to penalties, States also impose interest on late payments. The interest rate may be set by law or may be subject to periodic adjustment on an annual or more periodic basis. Generally, State Tax Departments cannot waive interest.

14. Statute of Limitations

14.1. Recovery of SUT by the tax authority
The periods for which State Tax Departments can issue assessments vary by State. The average period is between three and four years from the tax return due date.

14.2. Recovery of SUT by the taxable person
Refund periods vary by State. Refer to State Law for State specific Sales and Use Tax refund requirements. By way of example, refund claims in Pennsylvania must be filed within three years of the payment. In New York, refund claims must generally be filed within the later of: three years of the filing of the return or two years from when the tax was paid.

15. Rulings and Decisions

15.1. Rulings
The ruling procedures vary by State. Many States offer taxpayers the opportunity to request a private letter ruling. These rulings usually only bind the requesting taxpayer, but often serve as a general statement of Department policy. Some States offer more general rulings or statements of Department policy. Many of these rulings are posted on the Internet.

15.2. Decisions
The appeal process varies among the States. Generally, a determination is first made the State Tax Department. Then, the first forum is an often an administrative panel, which may or may not be a division of the State Tax Department.

Following these appeals transfer to the State Court systems. Some States have independent Tax Courts, who hear only tax related issues. From there, appeals will go the State Appeals Court and then, if unresolved, to the State’s Highest Court. The actual names of the Courts vary by State.
16. Abuse of Law

16.1. Anti-avoidance and Fraud measures
Nearly every state imposes criminal penalties for failing to file or pay or for filing a false and fraudulent return. These crimes may be characterized as misdemeanors or felonies, carry fines, and possibly subject responsible parties to imprisonment. In addition, many states have specific regimes designed to target abusive tax avoidance transactions.
United States of America
Useful contacts

Brian Goldstein
Partner
National Indirect Tax Practice Leader
300 Madison Avenue
New York, NY. 10017, USA
Tel.: +16464710520
Fax: +18137417429
Email: brian.goldstein@us.pwc.com

Thomas A. Boniface
Partner
Indirect Tax - National VAT Leader
300 Madison Avenue
New York, NY. 10017, USA
Tel.: +16464714579
Email: thomas.a.boniface@us.pwc.com

Reena Khosla Reynolds
Director
Indirect Tax
One North Wacker
Chicago, IL. 60606, USA
Tel.: +13122982171
Email: reena.k.reynolds@us.pwc.com
1. Scope

The Value Added Tax (VAT) is a federal tax administered by the National Integrated Customs and Tax Administration Service (SENIAT as per its Spanish acronym). It is an indirect and multiphase tax that is levied on the value added generated in each stage of the production and trade process, from the import stage to the supply to final consumers, who bear the ultimate responsibility of paying it.

Companies that perform tax-exempt operations are treated as the final consumers and therefore, have to bear the payment of VAT on their purchases, which generally cannot be recovered. However, the VAT is considered a cost that may be deducted from gross income for the purposes of calculating Income Tax.

The following transactions are subject to VAT:

• The supply and importation of tangible movable property;
• The withdrawal or disposal of movable property made by taxpayers and the consumption of services inherent to the company’s line of business or activity;
• The provision of independent services executed or used in the country, including those derived from abroad;
• The exportation of tangible movable property and services.

For purposes of the tax, services are defined as any independent activity where the rendering of obligations constitutes the core of such activity. They also comprise movable or real state property work contracts; the provision of water, electricity, telephone and health; the leasing of movable property, and the leasing of real estate property for purposes other than residential purposes, as well as the leasing or assignments related to the use of intangible property such as trademarks, patents, copyrights, art or intellectual works, scientific or technical projects, studies, instructions, software and other properties contained in and regulated by the existing legislation on industrial, commercial and intellectual property, or on technological transfer.

The supply of services are deemed exported, in the terms specified in the Law, when the beneficiaries or recipients are not domiciled in the country, provided that said services are exclusively used abroad.

Importation of goods, as well as supplies of goods and provision of services made within the Free Ports and Duty Free Zones are VAT exempt without credit. The list of Venezuelan Free Ports and Duty Free Zones are as follows:

• The Free Port of Nueva Esparta State;
• The Free Zone for the Development of Tourist Investment at the Paraguana Peninsula in the Falcon State; the Cultural, Scientific and Technological Free Zone of the Mérida State;
• The Free Port of Santa Elena de Uairén; and
• The Atuja Industrial, Commercial and Service Duty Free Zone (ZOFRAT).

2. Taxable Persons

2.1. Definition

Taxable persons generally include any individuals or companies, communities, societies, consortiums and any other legal, economic, public or private entities that regularly carry out taxable events under the VAT Law.

Commissioners and agents who act on behalf of a principal are liable to account for VAT on the value of any commission earned from their service.

In some situations the person liable to account for VAT is not the supplier, such as:

• Persons acquiring goods and receiving services from a supplier who is not domiciled in Venezuela; or
• Persons acquiring exempt or non-taxable goods when the exemption is under condition of use and the final use is different.

2.2. VAT Grouping (VAT consolidation regime)
There are no VAT Grouping provisions in Venezuela.

3. Place of supply

3.1. Goods
Supply of goods are taxable in Venezuela when they are located in the country. Goods temporarily located in Venezuela are deemed taxable as well.

3.2. Services
Services are taxable in Venezuela when they are carried out or used in the country, even if they are contracted, paid for or carried out abroad.

There is no specific ruling for electronic supplies (i.e., internet downloadable goods) and as such, the aforementioned general rule for services apply to this type of service as well.

International transport services for either passengers or cargo are deemed partially supplied in the country. Therefore, the tax rate established in the VAT Law will be applied on 50% of the value of the plane ticket or freight sold in the country for any flight with departures from Venezuela.

4. Chargeable event, chargeability of tax

4.1. Goods
• Supply to a public entity: when the payment order is issued;
• In all other cases, the earliest of when: an invoice is issued, the goods are delivered, or a payment is received.
• Services such as electricity, telecommunication, public waste management, television services by cable or any other technological means: when the invoice is issued by the service provider;
• Services supplied on a continuous basis other than those mentioned above: the earliest of when the invoice is issued, a payment is made, or the service is required to be carried out totally or partially;
• Services are supplied to a public entity: when the payment order is issued;
• Services originated abroad, such as technological services, instructions, or any other supporting material that can be subject to special legislation out of scope of the customs procedures, the earliest of when: the invoice is issued by the service provider; the service has been provided, carried out or used; the service fee is paid or becomes due by the service provider; or the goods or works qualified as service are put at the disposal of the service recipient;
• In any other case not included in the above points, the earliest of when the invoices or equivalent documents are issued by the service supplier; the service is performed, paid or requested by the recipient; or the goods qualified as services (such as construction, installations and repair, etc) are put at the disposal of the purchaser;

4.2. Services
Goods imported into Venezuela are subject to VAT that must be paid at the time import declaration is filed before Customs Services.

In the case of imported services, the time of supply is when the service is received by the Venezuelan recipient.

4.3. Imports
VAT is assessed and paid at the Customs Authority of Venezuela at the point of importation.

5. Taxable Amount

5.1. General Rule
As a general rule, the taxable amount is the price paid for the transaction; however, the fair market value may be the taxable amount when it is lower than the consideration paid for the transaction.
The taxable amount related to imported goods is generally the customs value plus taxes, charges, duties, anti-dumping fees, compensatory interest and other expenses generated by the importation.

Intangible property coming from abroad is generally included in the supporting material and will be valued separately according to the procedures set forth in the VAT Law and its regulations.

The taxable amount on social or sporting clubs is any consideration paid by the members for the usual activities and availability of the club.

Where there is no monetary consideration, the taxable amount will generally be the value agreed between the parties, provided it is not less than the fair market value. In general, in order to determine the taxable amount, the following should also be considered:

- Adjustments, updates or fixed-pricing agreements that impact the price, commissions, interests, expenses or reimbursements;
- Value of ancillary goods and services, such as transportation, freight, packaging, insurance, guarantees, installation and maintenance (when they are not independent services);
- Value of containers, even when they are separately invoiced, or guarantee deposit; • Other taxes levied on the transaction in addition to VAT; and
- Discounts, deductions, and price reductions, provided they are usually applicable to commercial activities. This includes promotion strategies such as “buy one, get one free.”

5.2. Exchange Rate Rules
If the taxable amount is expressed in a foreign currency, it should be converted into the local currency applying the exchange rate published in the Official Gazette corresponding to the date on which the supply of goods or services took place.

5.3. Rounding Rules
According to Venezuela’s Master Tax Code all tax amounts are to be rounded up or down based on “one Bolívar” - monetary unit of Venezuela.

For such purposes, when the amount in cents is equal to or greater than 50 cents, the unit to be considered is that which is immediately higher; on the other hand, when the amount is lower than 50 cents the unit to be considered is that immediately lower.

6. Rates

6.1. Standard Rate
The standard VAT rate is 12%.

6.2. Increased Rate
An additional 10% over the standard rate is applicable on luxury items (22% rate).

6.3. Reduced Rate
A reduced rate of 8% is applicable on certain goods and services (i.e., food and other products for human consumption, services provided to government).

The zero-rate (0%) is applied on exports of movable goods and services. Supply of natural hydrocarbon by joint ventures regulated by the Hydrocarbon Law to Petroleos de Venezuela, SA (PDVSA) and affiliated companies, are also taxable at zero-rate (0%).

7. Exemptions

7.1. Exemption with no right to deduct input VAT
As examples of supplies VAT exempt without credit we could mention the followings:

- Certain food and products for human consumption;
- Fertilizes and natural gas used to produce them;
- Medicines and materials used to manufacture them;
• Gas and derivatives from hydrocarbon and all materials used to improve the quality of such products;
• Motor vehicles with special modifications for handicapped people, as well as wheel chairs, prosthesis and artificial organs;
• Newspapers, journals, and the paper used to print them;
• Books, magazines, and booklets;
• Corn for human consumption;
• Importation of the items above;
• Imports by diplomatic delegations according to International Treaties;
• Other imports set forth in the VAT Law;
• Domestic ground and aquatic transportation of passengers;
• Educational services by registered institutions;
• Lodging and restaurant service for students, the elderly, handicapped people, by the institutions dedicated to these services;
• Tickets to national parks, zoos, museums, cultural and similar institutions; and
• Medical and dental services.

7.2. Exemption with right to deduct input VAT (Zero-rated supplies)
• Operations which qualify as exports of movable goods and services under the definition of export provided by the VAT Law;
• Supply of natural hydrocarbon by joint ventures regulated by the Hydrocarbon -Law to Petróleos de Venezuela, SA (PDVSA) and affiliated companies.

8. Deductions

8.1. VAT recovery
Input VAT incurred by a taxpayer can be offset against output VAT, provided that it is attributable to taxable transactions and some additional requirements are met. Input VAT generated at a pre-operative stage can be recovered.

In order to offset said input VAT it must be related to purchases that qualify as costs, expenses or disbursements linked to the taxpayers' regular economic activities.

Where input VAT relates to both transactions within the scope of VAT and exempt transactions, the input VAT will be deductible according to a pro rata calculation.

If during a VAT period the input VAT exceeds output VAT, the difference can be carried forward to subsequent periods until their exhaustion.

9. Person liable to pay VAT - non-established taxable persons

9.1. VAT Liabilities
Non-resident businesses are required to register for VAT in Venezuela if they carry out taxable transactions or have a permanent establishment (e.g. branch) in Venezuela.

9.2. Registration for taxable persons not established in the country
Venezuela legislation does not provide any registration mechanism for non-resident businesses.

9.3. Application Procedure
There are no specific provisions on this topic.

9.4. VAT Registration: Simplification
There are no specific provisions on this topic.
9.5. Alternative procedures for non-established taxable persons
There are no specific provisions on this topic.

9.6. Exemption from the requirement to register
There are no specific provisions on this topic.

9.7. Joint Liability
There are no specific provisions on this topic.

10. VAT Compliance (Obligations under the internal system)

10.1. Persons Liable to account for VAT
The supplier is the person that is liable to charge and account for VAT on his transactions, except for those cases in which the supplier of the goods or the services is not domiciled in the country. In these last cases, VAT is self-assessed (reverse charged) by the local person liable for VAT.

Withholding agents are also obligated to account for taxes withheld in their records and they must file a return and make payments twice a month.

10.2. Registration
The procedure to obtain a Tax Registration Number (RIF) in Venezuela is as follows:

- The user has to be registered through the tax authority's website (www.seniat.gov.ve);
- The user has a thirty-day period to submit the documentation requested, namely: the articles of incorporation, the legal representative’s power of attorney and a document evidencing the address of the taxpayer.
- Once the above mentioned documents have been consigned the taxpayer receives a registration certificate with the RIF Number.

10.3. VAT Identification Number
Businesses should obtain a Tax Registration Number, which is used for all tax purposes (including VAT). This Tax Registration Number (RIF) consists in one letter (“J” for companies and “I” for individuals), eight numbers and a last verifying number which is determined by the Tax Authorities. In case of individuals, the eight numbers correspond to their Venezuela National Identification Card.

Example: J-12345678-1

10.4. Tax authority
SENIAT is the government institution responsible for the administration and enforcement of all national taxes including VAT.

SENIAT may perform audits to ensure tax compliance. This is done by reviewing the taxable persons’ accounting records and tax returns. If assessments are issued as a consequence of an audit, SENIAT may force taxpayers to pay any tax liability arisen and the related tax penalties if any and certain corresponding tax penalties.

10.5. Invoicing

10.5.1. Valid Invoice
Invoices should be printed in a specific format as laid out in the “Invoicing Regulations.” These regulations establish the format, the dimensions (i.e., legal or letter size), expiration date and other mandatory information that invoices must meet for tax purposes. Invoices (or similar documents) issued by non-domiciled businesses are not required to fulfill such requirements for VAT purposes.

Invoices related to supply of goods should be issued at the time said goods are delivered to the customer.

Invoices related to supply of services must be issued within the tax period in which the supplier receives the consideration or payment related to the supply or when the service fee is credited to the account of the supplier.
Invoices issued on pre-established formats or free formats by regular VAT taxpayers need to contain the following data:

1. The word “Invoice” (“FACTURA”) as a title.
2. Sequential, consecutive and unique numeration.
3. Pre-printed Control Number.
4. Range of Control Numeration assigned to the invoices, specified as follows “from Nº 0 to Nº 000”.
5. Name and last name or corporate name, tax domicile and Tax Information.
6. Registration Number (RIF) of the supplier.
7. Date of Issuance, formed by eight (8) numbers.
8. Name and last name or corporate name and RIF of the purchaser of the goods or services. The RIF number may be omitted in the case of individuals who do not require the invoice for tax purposes; in which case the Identify Card or Passport Nº of the purchaser of the goods or services has to be included.
9. Description of the goods sold or service rendered, mentioning the quantities and the amount. The quantity may be omitted in cases where the type of services rendered not allows specify of the quantities. In case of goods or services exempt, exonerated or not subject to VAT, the letter “E” should be inserted next to the description of the price separate by a blank space and in parenthesis as follows: (E).
10. When charges additional to the agreed price or service fees are collected or in case of discounts, bonus, charge eliminations or any other adjustment made to the price, the description and value of such adjustments have to be mentioned. Specification of the total VAT base, splitting by tax rate, mentioning the percentage applicable, as well as specification of the total amount exempt or exonerated.
11. Specification of the total amount of VAT, splited by tax rate, indicating the percentage applicable.
12. Indication of the total value of goods or services supplied or the addition of both, if applicable.
13. Inclusion of the wording “Not entitled to tax credit”, in case of copies of invoices.
14. In case of operations subject to VAT invoiced in a foreign currency, the corresponding amount in national currency, both amounts must be mentioned in the related invoice, including the total amount and the exchange rate applied.
15. Corporate name and RIF Number of the authorized printing company, as well as the nomenclature and issuance date of the Administrative Provision granting the authorization.
16. Date of preparation on the part of the authorized printing company, mentioning the eight (8) numbers.

10.5.2. Issuance of Valid Invoice - Outsourcing and self-billing
Self-billing is not allowed in Venezuela, except in those cases where indicated by law.

There are no specific rules on invoicing outsourcing. However, the issuance of valid invoices through outsourced services is not a common practice in Venezuela.

10.5.3. Electronic Invoicing
Public or private companies providing services related to electricity, drinkable water, domestic gas, urban health, basic telephone communications, mobile telephony services, broadcasting by subscription, and Internet are subject to a special invoicing regime which allows them to issue electronic invoicing, providing the following conditions are met:

• They issue over 10,000 documents per month.
• Their database has a tracking log or record of activities in which every action taken for the issuance of invoices is recorded.
• They have enough technical infrastructure to:
• Create back-ups on a daily basis of the information contained in invoices; and • Allow SENIAT to monitor invoices issued on a permanent and continuous basis through electronic means (e.g., SENIAT online software).

10.6. Credit notes and debit notes
Credit and debit notes should be issued in case of supplies of goods or services that have been partially or totally “annulled” (void) or when an adjustment has been originated and for which an invoice was issued.
Same requirements applicable to invoices are applicable to credit/debit notes.

10.7. Books and Accounting Registers/Records
Taxpayers must keep organized accounting records in books, ledgers and files. In addition to the statutory books required in the Code of Commerce, taxpayers are required to keep VAT books of sales and purchases.

All transactions, taxable and non-taxable, must be accounted within the month they are originated. Credit and debit notes must be accounted within the month they have been issued.

10.8. Retention of and access to: books, registers, records and invoices

10.8.1. Retention Period
Taxpayers must keep all accounting records and relevant information related to all taxes, including VAT during the statute of limitations period (from four to six years) set forth in the Master Tax Code.

10.8.2. Format of Archiving
Records must be kept on hard copies. Taxpayers who keep records by electronic means must keep the magnetic media, diskettes and tapes as well as their physical back-up.

10.8.3. Place of Archiving
Archiving should be kept at the taxpayer's registered tax address (e.g., business address).

10.9. Supporting documentation
VAT taxpayers are required to keep all the necessary information to support the nature and truthfulness of their transactions (i.e., contracts, customs documents, export and import declarations, and invoices). The lack of compliance may trigger an assessment during a tax audit.

10.10. Tax period and VAT returns
Taxpayers are required to file a monthly VAT return within 15 calendar days following the end of the tax period to which it relates. For example, a VAT return for the month of June must be submitted to the Tax Authorities no later than July 15th.

10.11. Due Date for payment of VAT
The VAT must be paid on the filing due date.

10.12. Refunds of VAT

10.12.1. Special Regime for Exporters
The VAT Law provides for a special regime for taxpayers engaged in the export of national goods or services (i.e., goods produced or services rendered in Venezuela) provided that such operations qualify as exports in the terms set forth by the VAT Law.

According to this regime, taxpayers are entitled to recover the input VAT paid on the purchase of goods and services related to export activities. If such exporters carry out supplies in the country, they will only be entitled to recover input VAT related to foreign supplies.

10.12.2. Special Regime for Industrial Projects
VAT Law establishes a special regime for taxpayers engaged in the execution of industrial projects lasting more than six taxable periods. Pursuant to this regime, taxpayers will be able to carry forward input VAT paid during the construction work up to the time they start their supplies, offsetting said input VAT against output VAT charged.

Taxpayers engaged in the execution of industrial projects aimed at exporting or generating foreign currency may (with prior authorization of the Tax Authorities), choose to recover the input VAT paid in construction work related to the project, provided that they have been incurred during the pre-operating stage of such project.

Please note that input VAT subject to recovery must be determined after computing output VAT. In other words, input VAT originated from purchases of goods and reception of services is not subject to recovery if output VAT was not subtracted.

There is no VAT refund mechanism for non-established businesses.
10.13. Additional Reporting (statements)
Withholding agents are required to file electronically a supplement report of purchases and withholding taxes applied during the respective two-week period.

10.14. Other measures

10.14.1. Special Taxpayer
The Tax Authorities, bearing in mind that certain categories of taxpayers require specialized attention, created a special category of taxpayers, based on their income level, sector or economic activity.

Taxpayers, who qualify additional as special taxpayers and were notified by the Tax Authorities as such, are required to fulfill the obligation of paying and filing tax return, exclusively in the place indicated in the corresponding notice, and on the date indicated in the calendar published every year by SENIAT.

11. Auditing

11.1. Auditing
SENIAT Officers are authorized to audit filed tax returns. They notify taxpayers of the tax years that will be reviewed beforehand.

These officers are authorized to audit all the taxpayer’s books and records and may request additional information on any questionable items. The officers can also carry out an official estimate in those cases in which satisfactory information cannot be obtained. Once the audit is concluded, the Tax Authorities may issue a tax assessment if it is not consistent with the taxpayer’s tax return.

The taxpayer has a period of 15 days to pay the additional tax, including a fine and the corresponding interest on late payment.

11.2. E-Auditing
In Venezuela, E-auditing systems have not yet been implemented.

12. Penalties and risks for non-compliance

12.1. Penalties
Failure to file or late filling of tax returns are subject to fines which range from 10 to 50 Tax Units (roughly USD 260 to USD 1,300) and from 5 to 25 Tax Units (roughly USD 130 to USD 640), respectively. In case of additional tax obligations as a result of a tax audit, the Tax Authorities may apply fines ranging from 25% to 200% of the tax due.

Those who by means of misrepresentation, concealment or any other kind of deceit lead the Tax Authorities to a wrong conclusion and accordingly pay less taxes (tax fraud) will be subject to a jail sentence ranging between six months and seven years.

12.2. Interest on late payments
Late payment of taxes is subject to interest on debts equivalent to the maximum bank interest rate increased by 20%.

12.3. Joint Liability
Corporate directors, managers or administrators are liable for the payment of taxes, fines and supplementary tax payments derived from the goods that they administer.

13. Statute of Limitations

In case taxpayer has filed the mandatory tax returns, the statute of limitations period for the Tax Authorities to be able to verify, audit, assess and impose tax penalties is four years. However, the Tax Authorities have a period of six years when no tax return has been filed, the taxpayer has not been registered, or the accounting records have not been properly kept.

13.1. Recovery of VAT by the tax authority
The right to demand payment of tax liability and impose pecuniary penalties is barred by statute of limitations within a period of six years.
13.2. Recovery of VAT by the taxable person

The taxpayer’s right to recover taxes paid in excess or unduly paid is also barred by statute of limitations to a four year period.

14. Rulings and Decisions

Taxpayers may request rulings from the Tax Authorities regarding the application of tax standards to a specific situation. No penalty can be imposed to taxpayers who have applied the criterion stated by the Tax Authorities on a ruling issued related to the matter at hand.

The decisions are applicable only to the relevant taxpayer and are used to interpret tax laws. Case-laws are not binding at a general level, except for sentences issued by the Constitutional Division of the Supreme Court of Justice related to the content and scope of constitutional standards and principles.

15. Abuse of Law

15.1. Anti-avoidance and VAT Fraud measures

Since 2003, the Venezuelan Government has been applying the “Zero Evasion Plan”. According to declarations made by the highest authorities of the Tax Authorities, the plan seeks to discourage tax crimes by increasing taxpayers’ risks and reinforcing the basis of the citizens’ tax liabilities.

The Plan contains three fundamental guidelines:

1. Establishment and promoting a tax culture that encourage taxpayers to demand invoices; reject blank checks, and report tax evaders;
2. Verification and inspection of formal duties attributed to: commercial establishments specialized in the provision of personal and corporate services as well as industrial establishments; and
3. Implementation of the continuity of the fight against smuggling and customs fraud.

Within the framework of the Plan, the Venezuelan Government has taken a number of actions nationwide, which include the temporary closing of establishments for non-compliance with formal duties associated with the VAT (i.e., VAT sales and purchases, valid invoices, etc).

16. Other Rules

16.1. VAT withholding regimes

As of 1 January 2003, with some amendments made in February 2005, a standard was entered into effect whereby taxpayers qualified by the Tax Authorities as Special Taxpayers and the Public Entities were designated as VAT withholding agents.

According to the aforementioned standard, special taxpayers must act as VAT withholding agents when they purchase goods or services from suppliers qualified as regular VAT taxpayers.

In this regard, the amount to be withheld by the special taxpayers will be equal to multiplying the invoiced price of the taxed goods or services by 75% of the tax rate, except for those cases in which the VAT does not appear separately from the price; or when the respective invoice does not comply with the formalities or requirements set forth in the tax law or when the supplier is not registered before the RIF. In these latter cases, special taxpayers must withhold 100% of the output VAT due on the transaction.

Suppliers may offset the VAT withheld from the tax liability determined for the period in which the VAT was withheld, provided that they have the receipt issued by the withholding agent. In those cases in which the tax withheld from a regular taxpayer exceeds the taxpayer’s VAT liability corresponding to the relevant tax period, such taxpayer may offset and carry forward the tax withheld from VAT liability to the following tax periods until their total offsetting.

If after three tax periods there is still excess tax withheld that is not offset, the taxpayer may claim the total or partial refund of such credit. Within the same claim suppliers must indicate their intention to offset or assign such tax credit, if a favorable decision is obtained from the tax authorities, by identifying the tax, the amount, the assignee and the tax against which the assignee will impute the respective tax withheld. Withholding agents
or assignees may only offset such tax withheld once they have received the Approving Resolution from the Tax Authorities.

16.2. Other regimes

16.2.1. Currency Exchange Rate Control
In January 2003, the Venezuelan Government and the Venezuelan Central Bank restricted the free foreign currency trade and established an Exchange Control Regime, which is characterized by the following aspects:

• The Venezuelan Central Bank (VCB) centralizes the purchase and supplies of foreign currency.
• All foreign currency derived from the export of goods, services, and technology must be sold to the VCB, through the financial system and at the official exchange rate.
• Exporters must be registered at the “Export Users Registry”. In order to do so, exporters must provide documentation certifying good tax standing status.

Likewise, it is mandatory to deposit before the VCB any supply of foreign currency introduced in the country by any concept (supply of goods, services, direct foreign investment). In such cases, foreign currency must be registered within the Superintendence of Foreign Investment (SIEX), for re-exportation and remittance purposes. The acquisition of foreign currency for import purposes is also subject to an application for “Foreign Currency Authorization,” which is subject to certain conditions.

Currently there is only one official exchange rate: BVF 4.30 per USD applicable to all transactions.

In October 14, 2005 came into force the Law of Exchange Crimes. The objective of this Law is to establish the facts that are considered foreign exchange criminal offense and their respective penalties. Such penalties may be both criminal and pecuniary.
**Venezuela**

**Useful contacts**

**Jose Manuel Cobos**

**Partner**
Avenida Principal de Chuao
Edificio Del Río
Apartado 1789
Caracas 1010-A, Estado Miranda, Venezuela
Tel.: +58 212 700 6124
Email: jose.cobos@ve.pwc.com

**Anna Rita Restaino**

**Director**
Avenida Principal de Chuao
Edificio Del Río
Apartado 1789
Caracas 1010-A, Estado Miranda, Venezuela
Tel.: +58 212 700 6217
Email: ana.restaino@ve.pwc.com
## Appendix

### Tax Rates

<table>
<thead>
<tr>
<th>Country</th>
<th>Standard rate</th>
<th>Reduced rate</th>
<th>Increased rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua &amp; Barbuda</td>
<td>15%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Argentina</td>
<td>21%</td>
<td>10.5%</td>
<td>27%</td>
</tr>
<tr>
<td>Bolivía</td>
<td>13%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Brazil /1</td>
<td>18%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Canada /2</td>
<td>5%</td>
<td>n/a</td>
<td>13%, 14%, 15%</td>
</tr>
<tr>
<td>Chile</td>
<td>19%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Colombia</td>
<td>16%</td>
<td>5%</td>
<td>n/a</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>13%</td>
<td>n/a</td>
<td>20%, 35%</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>18%</td>
<td>8%</td>
<td>n/a</td>
</tr>
<tr>
<td>Ecuador</td>
<td>12%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>El Salvador</td>
<td>13%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Guatemala</td>
<td>12%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Honduras</td>
<td>12%</td>
<td>n/a</td>
<td>15%</td>
</tr>
<tr>
<td>Mexico /3</td>
<td>16%</td>
<td>11%</td>
<td>n/a</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>15%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Panama</td>
<td>7%</td>
<td>n/a</td>
<td>10%, 15%</td>
</tr>
<tr>
<td>Paraguay</td>
<td>10%</td>
<td>5%</td>
<td>n/a</td>
</tr>
<tr>
<td>Peru</td>
<td>18%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Trinidad &amp; Tobago</td>
<td>15%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>United States of America /4</td>
<td>2.9% to 8.25%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Uruguay</td>
<td>22%</td>
<td>10%</td>
<td>n/a</td>
</tr>
<tr>
<td>Venezuela /5</td>
<td>12%</td>
<td>8%</td>
<td>22%</td>
</tr>
</tbody>
</table>

1. Standard rate corresponds to average rate for State ICMS (VAT - 27 States)
2. Standard rate corresponds to Federal GST. Increased rates are HST rates in various provinces
3. The reduced rate is applicable only within the defined northern and southern border zones
4. Range of rates across the country
5. The increased rate is equal to the current standard rate plus an additional 10%
Contributors

Foreword, Preface, Introduction and coordination

Michaela Merz, Iván Jaso, César Alcántara

Antigua & Barbuda:
Charles Walwyn
Neil Coates

Argentina:
Ricardo D. Távieres
Fernando L. Menéndez
Rodolfo Feito

Bolivia:
Cesar Lora Moretto
Eduardo Aramayo
Cynthia Cortés

Brazil:
Luis Reis
Cassius Carvalho
Julissa Almeida

Canada:
Mario Seyer

Chile:
Sandra Benedetto

Colombia:
Carlos M. Chaparro
Andrés Millán P.
Jose Alejandro Herrera

Costa Rica:
Carlos Barrantes
Ana Elena Carazo
Luis D. Barahona
Marianela Vargas

Dominican Republic:
Ramón Ortega
Andrea Paniagua
Juan Tejeda
Caroline Bono

Ecuador:
Pablo Aguirre
César Ortiz

El Salvador:
Andrea Paniagua
Mauricio Orellana
Ericka Elías

Guatemala:
Edgar Mendoza
Rodrigo Salguero
Roberto Ozaeta

Honduras:
Ramón E. Morales
Milton Gabriel Rivera Urquía
Edward David Guevara

Mexico:
Iván Jaso
Javier Hernández
César Alcántara

Nicaragua:
Andrea Paniagua
Elias Álvarez

Panama:
Francisco A. Barrios
Ricardo Madrid
Pedro Anzola

Paraguay:
Rubén Taboada
Nadia Gorostiaga
Jorge Guillermo Gómez

Peru:
Rudolph Roeder
Daniela Comitre

Trinidad & Tobago:
Allyson West
Keith Robinson

United States of America:
Brian Goldstein

Venezuela:
Jose Manuel Cobos
Anna Rita Restaino