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Abstract

One of the biggest questions of investors and potential investors is to know the tax rate and tax burden in case of receiving dividends in the countries in which they decide to invest.

This document summarizes the tax treatment of dividends in different Latin American countries, to provide the investor with a pluri-country view on this issue.

While it is true that the decision to invest in a country should not be based on the tax burden of that country's tax authorities, but rather based on a complete study that includes financial, social, tax and economic issues; having information on tax costs before carrying out the investment helps to make decisions.

We hope this study conducted by several of our Latin American members, helps to provide our clients with valuable information.

Dividends' tax treatment over the following countries:



Brasil



Chile



Mexico



Perú

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Payment of Dividend to Non-resident Alien in Brazil

Dividends in Brazil are generally distributed after the calculation of the year Profit at the end of the accounting/tax year, which occurs in the period from 01/01 to 12/31. However, there is the possibility of quarterly distribution, as long as the Brazilian company elects some taxation methods of Corporate Income Tax – IRPJ and Social Contribution on Net Profit – CSLL, Quarterly under Actual Profit or Presumed Profit.

• Who is obligated and who pays the tax?

Since 1996, profits distributed to partners/shareholders, even if resident abroad, are not subject to taxation.

• How and when is the tax paid?

There is no taxation on dividends.

• Tax rate and exemptions

There is no taxation on dividends.

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• Main obligations

Upon effective payment of dividends, the Brazilian financial institution responsible for closing the exchange rate informs the Central Bank of Brazil – BCB of the occurrence of this operation.

If the payment of dividends is made directly abroad (without an exchange contract in Brazil), the amounts must be reported to the BCB, by the Brazilian company.

• Is there any exemption or credit is allowed?

There is no taxation on dividends.

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Payment of Dividends to Non taxpayer in Chile

This minute refers to the payments that Chilean companies make to companies or people without domicile or residence in Chile, that is, to companies or people settled abroad.

It is important to keep in mind that there may be some differences when the country receiving the dividend has a current double taxation agreement (DTA) with Chile or if it does not, so where appropriate the distinction will be made.

On the other hand, it must be kept in mind that in Chile article 10 of the OECD model CDT is not applied, because in Chile a semi-integrated or partially integrated tax regime is used, so the first category tax or corporate tax paid by the company is used as a credit against final taxes such as the additional tax. This is what is locally known as the "Chile clause."

• Who is obligated and who pays the tax?

The taxpayer of the tax, as the person on whom it is taxed by law, is the taxpayer without domicile or residence in Chile.

The taxpayer of the tax obligation, that is, the one who must withhold and pay the tax to the tax authority, is the one who pays the dividend abroad.

• How and when is the tax paid?

The dividend is paid through the taxpayer's website using a special form (F50), and can be paid from the moment the dividend is distributed until the 20th of the following month

• Main obligations

The person obliged to pay the tax or the taxpayer of the tax obligation has the following main obligations:

- > Calculate, withholding tax and pay them to the tax authority (Chilean IRS).
- > Keep accounting.
- > Especially keep an auxiliary of withholdings tax books with the details indicated by the regulations.

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• Tax rate and exemptions

The tax rate is 35%, without exemptions, but the first category credits paid by the company that are applicable can be applied.

At this point it should be clarified that if the dividend is distributed to a country with which Chile has an DTA, the first category tax applied is able to be use at 100%.

On the other hand, if the dividend is distributed to a country with which Chile has NO an DTA, the first category tax applied is able to be use just until 65%. Thus, when it comes to someone domiciled in a country without a DTA with Chile, the effective final rate will be 44.45%.

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• Is there any exemption or credit is allowed?

There are no exemptions for the collection of taxes for dividend payments made abroad.

However, if the Chilean company receives dividends from abroad which were taxed with corporate taxes, then it has the possibility of crediting the taxes paid abroad in order to reduce them from its own Chilean corporate tax.



Payment of Dividend to Non-resident in Mexico

Preliminary considerations

The payment of dividends by Mexican entities to partners, whether individual person or legal entities, both a resident in the country, commonly agree that at the end of the fiscal year of the entity that the distributes, like part to the corporate agreements contents in the assembly.

For the payment of dividends first should be of profits in accordance with the financial situation of the society and it is recommended that there are profits in order to fiscal effects, named CUFIN, that the society has already paid the corporate tax to 30% for so that they are not burdensome. As of the profits to 2014, the companies should withhold 10% of payment dividend.

• Who is obligated and who pays the tax?

The obligated subject of the tax is the resident in the abroad, however, that rent is considered a source of wealth in Mexico, for what the entity in Mexico that do the payment of dividends should calculate, withhold the tax, and later pay to the tax authority.

• How and when is the tax paid?

The payment is done the day 17 of the month following that the payment of dividend date through to the platform by internet of the tax authority SAT (Servicio de Administración Tributario).

• Main obligations

The hold of the tax should be fulfilled with the follow:

- > Pay the tax withheld about the tax withheld at the latest the day 17 of the month following that the payment of dividend.
- > To issue a mexican electronic invoice through of authorized providers by the tax authority which will have to be sealing.
- > In case to use a double tax agreement, it will have to save in company's record a receipt of the fiscal residence of the foreign resident
- > In some cases, could be the legal obligation to disclose a special report named "Esquemas Reportables", in where the authority considered if that distribution not is with a view for have an improper tax benefit.

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• Tax rate and exemptions

The tax rate is 10%, however, if Mexico has a double tax agreement this rate could be to 5% and until 0%.

• Is there any exemption or credit is allowed?

In the local legislation doesn't exist exemption, however, through of the double tax agreement can be decrease the rate until 0%.

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Payment of Dividends to Non taxpayer in Peru

In Peru, the Income Tax Law establishes that taxpayers not domiciled in the country are subject to tax only on their taxable income from Peruvian sources, in this sense, said taxpayers must pay tax on dividends paid to them by a company incorporated in the country by qualifying as Peruvian source income, and if such taxpayers are entities incorporated abroad, they are considered legal entities.

• Who is obligated and who pays the tax?

Those subject to the dividend tax are entities incorporated abroad.

The tax is withheld and paid by the company incorporated in the country, which distributes the profits.

• How and when is the tax paid?

The legal entity that distributes dividends to an entity incorporated abroad must withhold the tax on the date of adoption of the distribution agreement or when the dividends are made available in cash or in kind, whichever occurs first.

It is understood that the distribution of profits includes the distribution of freely available reserves and advance of profits.

The tax must be paid in the tax period (month) in which such distribution was agreed or the advance of profits was granted.

Payment is made through Virtual Form PDT 617.

• Main obligations

The obligations of the subject and responsible for paying the tax are:

- > Withhold the tax at the corresponding rate at the time of granting the advance or distribution of the dividend
- > Declare and pay the tax to the Tax Administration on the corresponding date through the corresponding Form.

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• Tax rate and exemptions

The income tax rate for legal entities not domiciled in the country is determined by applying 5% via withholding.

There are no exceptions.

In the case of countries that have concluded agreements with Peru to avoid double taxation (CDI), the provisions of said agreements will apply.

Peru has signed agreements with: Chile, Mexico, Canada, Brazil, South Korea, Switzerland, Portugal and the Andean Community of Nations (CAN) that involves Colombia, Bolivia and Ecuador.

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• Is there any exemption or credit is allowed?

There is no exception for the payment of income tax for the distribution of profits to a non-domiciled taxpayer.

The credits to which the taxpayer is entitled are not applicable to the amount corresponding to the rate that taxes dividends or any other form of distribution of profits