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**CONTRIBUTING FIRMS:**  
Almeida Advogados (www.almeidalaw.com.br); Estudio Bergstein (www.bergsteinlaw.com); Brons & Salas (www.brons.com.ar); Carey y Cía. Ltda. (www.carey.cl); Ferrere Abogados (www.ferrere.com); Greenberg Traurig, LLP (www.gtlaw.com); Hughes & Hughes (www.hughes.com.uy); Juliana Martines; Pardini & Asociados (www.padela.com); Sempertegui Ontaneda Abogados (www.sempertegui.com); Zuber Lawler & Del Duca, LLP (www.zuberlaw.com).
Argentina

NEW FOREIGN EXCHANGE REGULATIONS

In line with recent communications which have set out more stringent requirements to access the foreign exchange market, on July 5, 2012, the Argentine Central Bank (ACB) passed Communication “A” 5318, which suspended, indefinitely, access to the foreign exchange market for the purpose of saving.

Further, on July 26, 2012, the ACB passed Communication “A” 5330, which regulated the purchase of foreign currency for travel abroad. Among other limitations, this communication requires Argentine residents who travel abroad to file a sworn affidavit regarding the days such person will stay abroad, and assuming the obligation to return the exchanged funds in case the trip is cancelled or suspended, within 5 business days. In this regard, Communication “A” 5330 also provides that delays in the trip exceeding 10 business days, shall be considered as a suspension.

Contributors: Roberto Mahmud Gettor, Brons & Salas, Buenos Aires. For further information, please send an e-mail to rgettor@brons.com.ar.

Brazil

TAXES AND INCENTIVES FOR RENEWABLE ENERGY IN BRAZIL

It is undeniable that the quest for new sources of energy and the development of its related techniques are prominent issues in several sectors of the Brazilian society.

The preservation of the environment and the fluctuating cost of fuel derived from conventional sources (oil and gas) have created a global will to find new ways to supply enough energy to enable the growth of global economies without jeopardizing the health of our planet and the species which inhabit it.

It is with this in mind that countries have begun incentivizing the production of low-carbon fuels. This reality was outlined in a report by Bloomberg New Energy Finance [1], which showed that in 2010 there was an increase of 23% in investment, on alternative energies (wind, solar, biofuel, etc.) from the previous year.

These policies work off a theory that the regulation of carbon emissions will help achieve energy security by increasing a company’s tax burden on traditional energy practices and, in turn, promoting the development of renewable energies to offset that tax burden.

Worldwide, at least 83 countries (developed/transition and developed countries) have some sort of policy to promote the production of renewable energy.

Brazil is considered to be the world’s sixth largest investor in renewable energy, after countries like China (1st), U.S. (2nd), and Germany (3rd). This ranking is not just a result of the nations size either, as 43.9% of the Internal Energy Supply is renewable against a world average of 14%.

Brazil can achieve this percentage by producing almost all of the world’s sugarcane-derived ethanol. Since the 1980’s, every liter of fuel sold by Brazilian gas stations has had at least 25% of ethanol mixed with the gasoline; flex-fuel cars, which can be supplied by pure ethanol, gasoline, or a blend of the two, represent almost 95% of the Brazilian automobile market.

Brazil is uniquely situated to meet the large and increasing demand for ethanol due to the nation’s fortuitous weather patterns and vast amount of arable land.

In addition to developing the ethanol market, Brazil has been adding new biomass and wind power plants.

The growth of biodiesel as an alternative energy source in Brazil is supported by the federal legislation which mandates that at least 5% of diesel fuel must consist of biodiesel.

Financial programs have also been created to support biodiesel investments, including acquisitions of equipment and technology. In 2002, the Incentive Program for Alternative Sources of Energy (PROINFA) was created. This program was designed to encourage the production of electricity from wind, biomass, and small, centralized hydroelectric energy sources.

These policies, taken together, further the goal of meeting the aggressive target, established by the government, to derive 75% of Brazil’s electricity production from renewable...
resources by 2030.

It should be noted that there are many taxes relevant to the energy industry but the Brazilian government has created substantial tax relief for producers of alternative energies.

The Imposto sobre Operações relativas à Circulação de Mercadorias e Prestação de Serviços de Transporte Interestadual e Intermunicipal e de Comunicação (ICMS) is a state value-added tax levied on the import of products as well as some transitions involving goods. The applicable rate varies from 7% to 30%, but is generally 18%.

On the federal level, the Industrial Products Tax (IPI), levied on the import and manufacture of goods, presents a variable rate depending on the product. In addition, Brazil has numerous contributions that companies in the energy sector will be required to pay including the Social Integration Program (PIS), the Contribution to the Social Security Fund (COFINS) and the Contribution for Intervention in the Economic Domain (CIDE).

PIS and COFINS are gross revenue taxes charged, on a monthly basis, under two regimes. The applicable rates are 0.65% (PIS) and 3% (COFINS) for the cumulative regime and 1.65% (PIS) and 7.6% (COFINS) for the non-cumulative regime. Under the non-cumulative regime, the taxpayer can use PIS and COFINS credits over certain costs and expenses. CIDE is a contribution levied on the import and sale of oil and gas related products, including ethanol. The applicable rate varies from R$0 to R$230/m³.

In relation to renewable resources, there is a special tax regime for producers and importers of Biodiesel.

The sale of sugarcane for ethanol production, sales of ethanol by retailers, and trading of ethanol on the Future & Commodities Exchange (BMF) are not subject to gross revenue taxes (PIS/COFINS).

Biodiesel and ethanol sales are exempt from the IPI and ethanol sales are not subject to CIDE. Additionally, some products that use these fuels can be exempt from the ICMS and the ICMS tax base can be reduced for interstate operations, depending on the relevant state law.

Finally, equipment used in the process of energy production is exempt from all taxes besides the IPI and, until December 31st, 2013, a company is exempted from payment of the ICMS on operations involving equipment used in the generation of wind and solar energy.

As a result thereof, Brazil’s arable land and weather conditions, in addition to its extensive incentive system in renewable energy development, make this country very attractive to foreign investors aiming to invest in the renewable energy industry.


Contributor: Fernando Vaisman, Almeida Advocados, São Paulo. For further information, please send an e-mail to fvaisman@almeidalaw.com.br.

A JUDICIAL GLOSS ON BINDING PRECEDENT REGARDING CORPORATE VEIL, DISSOLUTION AND SHAREHOLDER LIABILITY FOR CORPORATE TAX OBLIGATIONS – SUPERIOR TRIBUNAL DE JUSTIÇA INTERPRETATION OF PRECEDENT NO. 435

On July 12, 2012, Brazil’s Superior Tribunal de Justiça (STJ), in charge of assuring a uniform interpretation of Brazil’s federal legislation, revisited the substance of its Súmula (judicial summary) No. 435 of April 14, 2010. Súmula No. 435 states: “A company that ceases to operate at its tax domicile, without communicating such circumstance to the competent authorities, is presumed irregularly dissolved, justifying the redirection of tax enforcement to the managing shareholder”. Adopted by the STJ with the required two-thirds vote of the court, Súmula No. 435 is binding precedent. In its current interpretation of Súmula No. 435, the STJ finds that simple failure of an enterprise to notify the competent authorities of the cessation of its operations at its registered address is not by itself sufficient to presume the enterprise’s irregular dissolution and hence the transfer of its tax liability to the managing shareholder.

In analyzing an appeal (Agavo Regimental no REsp. 1.268.993/DF) filed by the Federal Revenue Department (Fazenda Nacional), STJ judge Napoleão Maia Filho (also a law professor and
recognized poet) observed that a judicial finding of the cessation of an enterprise’s operation at its registered address is by itself insufficient to transfer liability for the enterprise’s tax obligations to its managing shareholders. Rather, such a transfer would require evidence of a culpable act or omission of the shareholder in connection with the activity giving rise to the tax liability.

The Federal Revenue Department considers this decision contrary to Súmula No. 435, further widely accepted jurisprudence on this matter, and its current approach of imposing the burden of proof on the taxpayer. Indeed, tax lawyers assert that tax authorities routinely freeze personal bank accounts to provoke payment of taxes owed by entities of which such individuals are owners.

For Judge Maia Filho, the Federal Revenue Department holds the burden of establishing the irregularity of an enterprise’s cessation of operation. Tax lawyers hope that the current ruling will assist in differentiating the cases of enterprises that simply fail to notify tax authorities of a change of address from those closing a business with intent to evade tax liabilities.

Contributors: Juliana Martines, Syngenta Proteção de Cultivos Ltda., São Paulo, Brazil; and Patrick Del Duca, Zuber Lawler & Del Duca, LLP, Los Angeles, California. For further information, please send an email to pdelduca@zuberlaw.com.

◊ Chile

AMENDMENT TO COASTAL TRADE REGULATION

On June 5, 2012, the Chilean government proposed a bill to Congress, whereby it seeks to promote participation of foreign ships in coastal trade (the “Bill”).

Currently, Merchant Navy Law provides that coastal trade must only be carried on by Chilean ships, allowing foreign ships to participate in few exceptional cases: (i) Public bids for transportation of charges over 900 tons, (ii) Special permissions for transportation of charges under 900 tons, if there are no Chilean ships available, and (iii) Foreign merchant ships, when rented by a Chilean shipping company and therefore considered Chilean by the Ministry of Transportation.

The Bill allows foreign merchant ships to participate in coastal trade as long as their dead weight (TDW) is equal or higher than 2,000 tons. Nevertheless, foreign ships which TDW is lower than 2,000, may only load charge and board passengers if there are no Chilean ships available.

The Bill also provides a new tax system that equals tax regulation for foreign and Chilean ships participating in coastal trade. Therefore the lease, sublease, affreightment and any assignment of temporary use of foreign ships for coastal trade, are subject to income tax over presumptive profits of 17% of each installment of the relevant contract.

Contributor: Marcos Ríos, Carey y Cía. Ltda., Santiago. For further information, please send an email to mrrios@carey.cl.

NEW ENVIRONMENTAL COURTS

On June 28, 2012, Law No. 20,600, that created Environmental Courts (the “Law”), was published in the Official Gazette. The Law creates three Courts which shall have jurisdiction over North, Central and South Chilean regions, respectively, and will begin their operation in six or twelve months as of the Law’s publication.

Each Court will be composed by three judges, two of them shall be attorneys, and the third one a Bachelor of Sciences expert on environmental matters. The Court must decide by majority any environmental dispute that the Law provides for their knowledge, including: complaints against Supreme Decrees that establish environmental quality regulations and emissions norms; claims for obtaining reparation of environmental damage; authorizing provisional measures, suspensions and penalties applied by the Environment Superintendence (“SMA”); complaints against approval or refusal of environmental impact studies; complaints against administrative orders regarding implementation of the environmental regulations when they are issued in breach of the law; etc.
The enforcement of the Law has also made operative the SMA, created by Law No. 20,417, whose enforcement was partially delayed until said Courts were created.

**Contributor:** Marcos Ríos, Carey y Cía. Ltda., Santiago. For further information, please send an email to mrios@carey.cl.

**GOOD PRACTICES FOR CORPORATE GOVERNANCE**

On July 4, 2012, the Chilean Securities and Insurance Supervisor (“SVS”) published a proposal of a new General Type Regulation which provides a self-evaluation system for open stock corporations (the “Regulation”).

The main purpose of the Regulation is to promote good standards for corporate governance by providing the SVS and stock exchanges with information regarding policies and practices of the companies, which shall also be published on the companies’ web pages for their investors’ knowledge. Furthermore, the Regulation aims for allowing institutions like stock markets to publish rankings of the companies based on this information.

The principles that shall be self-evaluated annually by each company include amongst others: (i) board members’ compliance with their obligations; (ii) the company’s relation with stockholders and general public; (iii) salaries of the principal executives; and (iv) supervision of policies and procedures for control of internal regulations’ compliance.

**Contributor:** Marcos Ríos, Carey y Cía. Ltda., Santiago. For further information, please send an email to mrios@carey.cl.

**NEW INFORMATION REQUIREMENTS FOR STOCKBROKERS**

On July 12, 2012, a group of representatives proposed a bill to Congress requiring new information obligations for stockbrokers and all securities’ brokers/dealers, in order to improve the quality of information and recommendations given to stockholders and general public (the “Bill!”).

The Bill’s new information requirements include, among others: (i) the obligation to provide and update to the SVS information regarding their personal investment portfolios; (ii) to inform about assessments granted by stock brokers to securities institutions and those institutions’ related parties; and (iii) to report about any agreements entered into for the administration of third parties’ investment portfolios.

Furthermore, the Bill amends the Securities Market Law, by creating new obligations and prohibitions to stock brokers such as: (i) obligation to indicate the source and methods used as basis for the information and recommendations they provide; (ii) obligation not to discriminate general public when providing such information; (iii) prohibition of issuing information and opinions regarding securities of companies under their assessment, or related or administrated by the broker, etc.

**Contributor:** Marcos Ríos, Carey y Cía. Ltda., Santiago. For further information, please send an email to mrios@carey.cl.

**MEASURES AGAINST DISCRIMINATION**

On July 24, 2012, Law No. 20,609 (the “Law”), entered into force. The Law creates a new proceeding against arbitrary discrimination, which allows everyone who has been a victim of a discriminatory act or omission to take legal action.

Pursuant to the Law, “any distinction, exclusion or restriction without any reasonable ground that deprives, disturbs or threatens any of the fundamental rights stated on the Chilean Constitution or the International Treaties ratified by Chile” are considered an arbitrary discrimination act.

If the contested action or omission has in fact been found to be discriminatory, the judge may annul the act, forbid its repetition, order the omitted act to take place, or order other measures deemed necessary. The judge is also authorized to apply a 5 to 50 UTM fine (approx. USD 400-4,000) to the responsible.

**Contributor:** Marcos Ríos, Carey y Cía. Ltda., Santiago. For further information, please send an email to mrios@carey.cl.
In June and July 2012, the Banking and Insurance Board of Ecuador issued several resolutions that reformed and amended some rules for the implementation of the “Law of Insurance” and the “Law for the Institutions of the Financial System”.


Resolution No. JB-2012-2154. Among the most important changes that this resolution makes in the field of Insurance and Reinsurance, one can find the inclusion of Chapter I: CLASSIFICATION OF RISKS, Title VI “Policies and Rates.” This chapter presents exhaustively a table with the risks that are covered in each branch and provides definitions that include both personal and goods insurance.

The Third Article of this resolution establishes that no matter the sector in which insurance companies are authorized to operate, any operation should be recorded according to the classification of risks.

Resolution No. JB-2012-2149. This resolution, published in the Official Gazette No. 728 on June 20, 2012, was issued in order to provide transparency to the market and lessen the procedures for monitoring and control. The resolution requires the insurance and reinsurance companies to adopt uniform criteria for classification, valuation and accounting of securities and other instruments in which investments are represented, to determine its market value.

In order to accomplish that purpose, the resolution determines that the board of the companies should include into their functions: a) Approve the creation of investment rating committee; and b) approve the policy manual and procedures for investment management.

Furthermore, it must have formal processes of comprehensive risk management to identify, control, mitigate and monitor risk exposures of the investment portfolio and treasury activities. For this purpose, companies should create a "Qualifying Investment Committee", which will monitor the investments made through the stock market, develop and update the “Manual of policies and procedures for managing investments” and design programs and investment mechanisms of technical reserves, paid-in capital and legal reserve of the insurance and reinsurance companies.

This resolution grants six months to the insurance and reinsurance companies to create the abovementioned Committee, and to prepare and submit the "Manual of policies and procedures for managing investments" to the Superintendence of Banking and Insurance, for its approval.


In this area, the Ecuadorian Banking and Insurance Board issued several resolutions of interest to the Financial Institutions to its users.

Resolution No. JB-2012-2194. This rule seeks to provide more transparency to the activity of financial institutions in the management of extrajudicial collection. For this purpose, in Section 10 of Chapter I "Of the fees for financial services" in Title XIV “On the transparency of information”, the resolution regulates extrajudicial collection, especially how it should be handled by banks and the specific items that allow banks to collect amounts of money besides the debt and interests. These items must be explicitly included in the loan contract that customers sign with the financial institution. It also prevents the automatic (i.e.: by the mere fact of default) extrajudicial collection.

The financial institutions have the obligation to inform their financial consumer about: a) the policies and mechanisms implemented by the entity to collect debts off court; b) the amount non paid that triggers the collection process; and c) the channels through which debtors can pay. Any change in these conditions should be reported to the customer through the website of the institution in a timely manner.

Resolution No. JB-2012-2208. This resolution establishes the prohibition for commerce and service companies that receive
payments by credit card, to alter (increase) the prices of the goods and services sold if the payment is made through credit card. This resolution is based on the Law of Consumer Protection, which established several rights for customers especially to make informed purchases with appropriate information and avoiding misleading advertising.

**Contributor:** Leonardo Sempértégui V., Sempértégui Ontaneda Abogados, Quito. For further information, please send an email to lsv@sempertegui.com.

◊**Guatemala**

**Award Against Guatemala in First Investor-State Arbitration Award Issued Under DR-CAFTA**

On June 29, 2012, a tribunal of the International Centre for the Settlement of Investment Disputes (ICSID) handed down the first award under the investor-state arbitration provisions of the Dominican Republic-Central America Free Trade Agreement (CAFTA), ruling in favor of a U.S.-based railroad company that Guatemala had violated the minimum standard of treatment that it was required to provide to foreign investors under the trade agreement.

The case, *Railroad Development Corporation (RDC) v. Republic of Guatemala*, ICSID Case No. ARB/07/23, arose from the Government of Guatemala’s award of a 50-year concession (“usufruct”) to claimant RDC in 1997 to revive, operate and develop the state-owned national railway system. After RDC had successfully revived and operated the railway for a number of years, disputes arose between the parties over the state’s failure to remove squatters from the railway line and to make agreed payments to a trust fund and over RDC’s alleged contractual obligation to invest in and reopen the railway’s Pacific corridor. In 2006, the President of Guatemala issued an executive decree stating that the usufruct contract which allowed RDC to use the state-owned rolling stock and railway equipment was “lesivo” or “harmful to the interests of the state” due to alleged technical illegalities in its execution and ratification by the Government. The lesivo declaration was issued after RDC refused to give into the Government’s demands that RDC renegotiate and surrender its key economic rights under the usufruct contracts.

The lesivo declaration caused RDC’s railway business to collapse due to the environment of commercial and political uncertainty and ultimately forced RDC to shut down its operations in Guatemala in the fall of 2007. RDC brought its ICSID claim against Guatemala in 2007, alleging a number of breaches of CAFTA’s foreign investment protections.

In their award, the ICSID tribunal held that Guatemala’s treatment of RDC through the lesivo declaration and related actions had been “arbitrary, grossly unfair [and] unjust” in violation of the CAFTA minimum standard of treatment, which requires each state party to provide fair and equitable treatment and full protection and security to investors of the other parties. The tribunal found that Guatemala used the “lesivo remedy … under a cloak of formal correctness allegedly in defense of the rule of law, [but] in fact for exacting concessions [from RDC] unrelated to the finding of lesivo”.

The tribunal, however, found that Guatemala’s actions - which, it concluded, had frustrated RDC’s investment-backed expectations and caused irreparable harm to its railway business - did not rise to the level of an indirect expropriation due to the fact that RDC continued to possess the railway equipment and other aspects of its business continued to function after issuance of the lesivo declaration.

As compensation for Guatemala’s breach of the minimum standard of treatment, RDC was awarded approximately $11.5 million in compensation and costs plus compound interest.

Besides being the first investor-state award rendered under CAFTA, the RDC Award is particularly noteworthy for its interpretation of the fair and equitable treatment obligation under the “minimum standard of treatment.”

Other than stating that it includes the concepts of “fair and equitable treatment” and “full protection and security”, the “minimum standard of treatment” is not clearly defined under CAFTA or any of the...
other U.S. trade agreements, including the North American Free Trade Agreement (NAFTA). In RDC, the tribunal rejected the arguments of Guatemala and other non-disputing CAFTA parties (El Salvador and Honduras) that fair and equitable treatment under the customary international law minimum standard of treatment is a narrow standard that does not protect foreign investors from arbitrary actions by the state or encompass the concepts of transparency or reasonable reliance on representations made by the host state.

Instead, the RDC tribunal adopted in full the conclusion reached by the tribunal in Waste Management, Inc. v. United Mexican States II, a 2004 NAFTA decision. In Waste Management II, the tribunal held that the minimum standard of treatment under customary international law is infringed by conduct that is “arbitrary, grossly unfair, unjust or idiosyncratic, is discriminatory and exposes the claimant to sectional or racial prejudice, or involves a lack of due process leading to an outcome which offends judicial propriety - as might be the case with a manifest failure of natural justice in judicial proceedings or a complete lack of transparency and candor in an administrative process”. Further, “[i]n applying this standard, it is relevant that the treatment is in breach of representations made by the host State which were reasonably relied on by the claimant”.

Although rulings by investor-state tribunals do not create binding legal precedents, the RDC tribunal’s adoption of the Waste Management II standard will likely be embraced and relied upon by future CAFTA claimants seeking to prove violations of fair and equitable treatment.

Contributor: Kevin E. Stern, Greenberg Traurig, LLP, Washington, D.C. For further information, please send an email to sternk@gtlaw.com.

Panama

RECENT SIGNIFICANT CHANGES IN PANAMA MINING LAW

1. Law 11 of 2012 establishes a special regime of social interest over mineral, hydro and environmental resources located within the Ngabe Bugle indigenous reservation and adjacent areas (the “reservation”).

This law forbids any exploration, exploitation or extraction concessions of metallic or non-metallic minerals within the reservation, and it further orders the immediate cancellation of all existing concessions granted to national or foreign entities.

Any future applications for hydroelectric projects located within the reservation shall require the previous approval of the general, regional or local congress of the reservation, in accordance with the circumstances of the project.

Other provisions of the Law deal with benefits, the creation of a development fund, compensation, penalties and tourism projects.

It is worth noting that important mining projects such as Cerro Colorado (one of the 10 largest unexploited copper deposits in the world) and Cerro Chorcha are located within the reservation.

2. Law 13 of 2012 re-establishes the entry into force and amends multiple sections of the Code of Mineral Resources and other provisions. The most relevant are:

Prohibitions regarding Mining Concessions

None of the persons mentioned below can obtain, exercise or enjoy mining concessions:

A. Foreign governments or states, or any entity or official or semi-official institutions.

B. Government officers or employees up to one year after leaving office. These provisions extend to family relatives.

C. Persons in arrears with the National Tax Office.

It is worth mentioning that that in A) foreign owned corporations controlled directly or indirectly by a foreign state are permitted to obtain mining concessions or invest in mining concessions. Such was the case with Inmet Mining $6.2 billion copper project in Panama, where both Korean and Singaporean companies indirectly owned by their governments invested in said project.
Land Rental Fee during Exploration

The land rental fee by hectare applicable to exploration concessions will be:

<table>
<thead>
<tr>
<th>Years of Concession</th>
<th>Rental by Hectare</th>
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</thead>
<tbody>
<tr>
<td>1 to 2 years</td>
<td>$1</td>
</tr>
<tr>
<td>3 to 4 years</td>
<td>$2</td>
</tr>
<tr>
<td>5 year forward</td>
<td>$3</td>
</tr>
</tbody>
</table>

Land Rental and Royalty Fee during Extraction

The land rental fee by hectare as well as the royalty applicable to extraction concessions will be:

<table>
<thead>
<tr>
<th>Class</th>
<th>First 5 years</th>
<th>From 6 to 10 years</th>
<th>After 10 years</th>
<th>Royalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>1.50</td>
<td>3.50</td>
<td>4.50</td>
<td></td>
</tr>
<tr>
<td>II</td>
<td>2.00</td>
<td>4.00</td>
<td>6.00</td>
<td>5%</td>
</tr>
<tr>
<td>III</td>
<td>2.00</td>
<td>4.00</td>
<td>6.00</td>
<td>8%</td>
</tr>
<tr>
<td>IV</td>
<td>2.00</td>
<td>5.00</td>
<td>7.00</td>
<td>4%</td>
</tr>
<tr>
<td>V</td>
<td>1.50</td>
<td>3.00</td>
<td>4.00</td>
<td>4%</td>
</tr>
<tr>
<td>VI</td>
<td>3.00</td>
<td>6.00</td>
<td>8.00</td>
<td>6%</td>
</tr>
</tbody>
</table>

Other provisions of this Law deal with penalties, bonds, percentages allocated to municipalities and procedural matters as well as non-metallic concessions.

Contributor: Juan F. Pardini, Pardini & Asociados, Panamá. For further information, please send an e-mail to pardini@padela.com.

NEW IMMIGRATION CATEGORIES & BENEFITS

1. By means of Executive Decree No. 343 of 2012, the immigration legislation has improved by creating a new Permanent residency category denominated as “Foreign applicants from countries with harmonious professional, friendly, economical and/or investment relations with the Republic of Panama”.

This new permanent category is only valid to applicants from certain nationalities, such as: Germany, Argentina, Australia, Austria, Brazil, Belgium, Canada, Spain, USA, Slovakia, France, Finland, The Netherlands, Ireland, Japan, Norway, Czech Republic, Switzerland, Singapore, Uruguay, Chile and Sweden.

The migratory program allows to become a permanent resident equal to any other current existent permanent resident program, as long as the applicant fulfills general requirements as well as the following main category requirements.

- General Requirements stated on article 28 of Decree-Law 3 of 2008:
  (i) Police record for all legal age members of the family.
  (ii) Certificate of birth: When principal applicant has dependents to include.
  (iii) Certificate of Marriage: When principal applicant has a spouse to include.

- Documentation that support the reasons why applicant requires obtaining a permanent residency in Panama. This documentation must support the economical (business) or professional activity to be performed in Panama.

- Financial Solvency of applicant which has to be proved by means of the latest statement of account or a Bank certification.

- Country of origin identification document.

- Dependents’ documentation:
  (i) Children - Certificate of birth (Children will be considered as dependent until the age of 18 years old and up to 25 years old if children are attending to an education institution (university, college, etc.).)
  (ii) Spouse - Certificate of Marriage
  (iii) Police record for dependents of legal age.

We are pleased by of the simplicity of the requirements and hope this initiative encourages more investors and visitors to do business in Panama.

2. In addition, the Panamanian government has decided to create other new permanent residency categories as well as softening requirements and procedures for applicants.
from restricted countries with promise of employment or employment contract in special legislation/zone companies:

Executive-Decree No. 416 of 2012 (incorporation of additional countries). By means of Executive-Decree No. 416 of 2012 the government modifies Executive-Decree 343 of 2012 and includes United Kingdom & North Ireland and South Korea as part of the list of countries that can apply for permanent residency in accordance to the immigration residency program of “Foreign applicants from countries with harmonious professional, friendly, economical and/or investment relations with the Republic of Panama”. (Newsletter attached).

Executive-Decree No. 415 of 2012 (Diplomatic and International Organization Members). The executive-decree provides the option to Diplomatic corps and International organization members that have culminated executing their assignments to opt for permanent residency in the Republic of Panama upon the fulfillment of certain conditions, such as:

1. Applicant’s country of origin must be part of the list of countries with friendly relations with the Republic of Panama (Executive-Decree 343 of 2012, Executive-Decree No. 416 of 2012 and Italy).
2. Applicant must prove the intent to develop economical activities in Panama
3. Procurement of Panama’s Ministry of Foreign affairs certifications letters
4. Applicant must have higher education degree.

In the event of having dependents, documents of prove must be presented (certificate of marriage and/or Certificate of Birth).

Benefits

- Import tax exemption for Household equipment up to US 10K
- Import tax exemption for motor vehicle every two years, or
- Purchase of motor vehicle without paying import tax every two years
- Immigration fees (repatriation bond and Immigration services) FREE
- Senior resident discounts
- Residency is approved in a single process

Executive-Decree No. 414 of 2012 - (temporary residency for restricted countries applicants). The regulation creates a significant improvement for many professionals which citizenship is categorized as a restricted country and has received formal offer of employment or employment contract in a Special legislation/zone company such as the regulated by the “Multinational Regional Headquarter Law and/or Panama-Pacific law”.

The process for applying to this labor temporary residency will have the typical requirements of any other immigration residency program with the significant change of not requiring a pre-approval from the National Security Council (entity responsible of providing travel authorization and/or residency application pre- approval for any applicant from a restricted country).

Highlights of the new immigration category:

- The program grants temporary residency (up to 6 years).
- The program is extensive to applicants’ dependents.
- The applicant must file the residency application within 90 days of its arrival to the country.
- The offer of employment or employment contract is the main requirement for applying to this program along with the certification of the Special legislation/zone company and the regulatory entity.
- This program only applies for the employment of workers in companies that are formally licensed as Multinational Regional Headquarter office or Panama-Pacific company/operator.

Contributor: Eduardo Achurra M., Pardini & Asociados, Panamá. For further information, please send an e-mail to pardini@padela.com.
Paraguay

Paraguay passes Personal Income Tax law to formalize economy

Personal Income Tax (IRP) in Paraguay was first passed in 1971 by Law Nº 248/71, though shortly after it was suspended for 20 years, until it was finally repealed by Law Nº 125/91. In 2004, Law Nº 2124/04 passed IRP again, to be in force as of January 2006, after the government and the private sector agreed to reduce the Corporate Tax’s rate from 30% to 10%, as a condition for opening negotiations. However, IRP was never enforced and after years of conflict with the Treasury Department, Congress suspended IRP until 2013.

Nevertheless, on July 2012, Congress passed Law Nº 4673/2012 on personal income tax in force as of August 1, 2012.

The new tax will apply at 8% to 10% rates, over the Paraguayan sourced net fiscal income obtained during the fiscal year by individuals (either resident or non resident) and professional corporations. Taxable income will be income derived from: (i) salaries (either as an employee or free-lance contractor); (ii) dividends, interests and savings income; and (iii) capital gains arising from the sale of immovable assets and from rights, shares or quotas of capital assigned during the year. Expenses can be deducted without any limits whatsoever and losses can be carried forward for 5 years.

In the case of resident individuals, the law establishes a threshold used to determine if the individual becomes subject to taxation. During 2012, resident individuals will only have to pay IRP if the annual income obtained exceeds USD 45,534. This figure will annually in USD 4,553, up to USD 1,138 at the tenth year of enforcement.

Professional corporations will pay IRP in any case, with no threshold.

Non-resident individuals who receive Paraguayan sourced income are subject to IRP at a 20% tax rate over the 50% of the gross income received (a 10% effective tax rate).

According to Government officials, IRP’s main purpose is the formalization of the economy which will result in an increase in revenue to the Treasury from indirect taxes such as Value Added Tax (VAT).

Contributor: Néstor Loizaga, Ferrere Abogados, Asunción. For further information, please send an e-mail to nloizaga@ferrere.com.

Uruguay

Registration of Bearer Shares

On July 2012, the Uruguayan Congress passed an Act (the “Act”) which implemented a system of identification of holders of bearer shares (the “Holders”) with the Central Bank of Uruguay (“CBU”).

According to the Act, the information of the Holders shall be submitted to a Registry kept by the CBU though the filing of sworn statements.

The Act sets forth the confidentiality of such information, whose access is restricted to certain public offices expressly listed, such as the Tax Office, in certain circumstances.

The filing requirements set forth in the Act (the “Filing”) apply to bearer shares of Uruguayan companies. Nominative shares are excluded from the filing requirement.

Bearer shares of foreign companies are also excluded from the Act scope, unless such foreign companies maintain in Uruguay a permanent establishment or the effective management of their operations.

1. Registration Procedure

The identification of Holders is submitted to a Registry maintained by the CBU. The Filing is effected through two separate sworn statements: (i) the first one, filed by the Holders with the company which issued the bearer shares (the “Company”); (ii) the second one, filed by the Company with the CBU.

The Holder must inform the Company (among others) his/her name and the total value of the bearer shares.

Once the information received by the Com-
pany is duly filed with the CBU, the Company must deliver to the Holder a certificate proving the submission of the information.

Any future changes in the percentage of stock-participation of the Holders in the Company, must also be filed with the CBU.

2. Penalties

A Holder which fails to comply with the mandatory filing of the sworn statement is subject to: (i) a fine in an amount to be determined on a case by case basis (up to the sum of US$ 20,000); (ii) the impossibility to exercise any right arising from his/her capacity as Holder, with the sole exception of filing the sworn statement.

The Company which is not in compliance with the Filing, is precluded from distributing dividends.

The Company in breach will be subject to the following penalties: (i) in case of failure to effect the mandatory filing or keeping the sworn statements, a fine in an amount to be determined on a case by case basis (up to the sum of US$ 20,000) would be imposed; and (ii) in case of breach of the prohibition of distributing dividends, the fine will amount up to the sum of the distributed dividends.

3. Amendment of Bylaws to Have the Shares Expressed in Nominative Form

Companies which decide to amend their bylaws to have their capital expressed in nominative form, benefit from streamlined bylaws amendment proceedings, as long as the sole purpose of the amendment is the expression of the capital in nominative form.

Contributor: Martín Balmaceda, Estudio Bergstein, Montevideo. For further information, please send an e-mail to jbergstein@bergsteinlaw.com.

NEW ACT REGARDING THE CESSATION OF ACTIVITIES OF URUGUAYAN AIRLINE “PLUNA”

1. The Uruguayan Congress has recently enacted Act No. 18.931 (the “Act”), which authorizes the Executive Branch to set up a trust, governed by the Act No. 17.703, consisting of assets of the Uruguayan Airline Pluna. In summary, the Act will transfer the assets of Pluna that are encumbered (the aircrafts) to a trust, whose trustee is appointed by the Executive Branch. The Act is aimed towards preserving the value of those assets, making viable options for the maintenance of regional air transport services in Uruguay, and preserving jobs.

2. Pluna may transfer assets to the trust even if it is in a state of dissolution or bankruptcy, regardless of what is set forth by the Uruguayan Reorganization and Bankruptcy Act. Typically, the court appoints a receiver to handle the bankruptcy of a company. However, the Board of Directors of Pluna will conserve all their legal and statutory powers in this respect. The trustee of the trust may also obtain all the authorizations and licenses necessary to dispose of, mobilize, and operate of the planes, including the total or partial assumption of the aircraft lease contracts.

3. The trustee will auction the planes out-of-court and publicly, within a maximum period of sixty days, starting from the date of its acquisition. The auction price of the trust assets will have a base value equivalent to the liabilities which would have been assumed by Pluna.

The purchaser of the planes who decides to apply them to the service of a national company may negotiate directly with the Executive Branch about the concession of the flight routes previously assigned to Pluna. This national company has to comply with the requirements and norms that are in force in regards to substantial ownership and effective control. Moreover, the granting of these routes will be subject to the hiring of Pluna employees, the assumption of other liabilities of Pluna which were assumed or guaranteed by the Uruguayan government, and the conditions established in the regulation.

4. In the case of the expiration of permits of Pluna that correspond to their regular flight routes, these permits will be held in reserve for a period of up to 180 days, starting from the date of declaration of bankruptcy of Pluna. Furthermore, together with the planes, a bidder may include in negotiations the material effects of the ex-
paration of these permits.

5. The Act creates a fund (FACLPl) that will pay employees of Pluna under unemployment insurance. The payment will function as a complement to the benefits of this insurance and will be distributed monthly until a maximum of 100% of the liquid amount of the computable nominal wages is paid. However, in order to obtain this benefit, the employees must assign and transfer to the Fund labor credits received for common severance pay against Pluna.

Contributor: Héctor Ferreira, Hughes & Hughes, Montevideo. For further information, please send an e-mail to hferreira@hughes.com.uy.