

Law 6380/2019
“Modernization and Simplification of the National Tax System”

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On September 12, 2019, the Congress of the Republic of Paraguay passed the Law 6380/2019 on “Modernization and Simplification of the National Tax System” (hereinafter, the “Tax Reform Law”) for the purpose of carrying out the greatest Paraguayan tax system reform in recent years. This law was promulgated by the President of the Republic on September 25, 2019 and will enter into force on January 1, 2020.

In Particular, the Tax Reform Law reorganizes the Corporate Tax (“*IRACIS*”), Small Taxpayer Income Tax (“*IRPC*”), Agricultural Income Tax (“*IRAGRO*”), Personal Income Tax (“*IRP*”), Value Added Tax (“*IVA*”) and Consumption Tax on Selected Goods (“*ISC*”) of the current tax system (hereinafter the “Current Tax Regime”). In addition, under this law, 2 (two) new taxes have been created: the Dividends and Profits Tax and Non-residents Income Tax.

The following is a brief summary of the essential aspects of each of the taxes regulated under the Tax Reform Law, such as their respective taxed income/revenue/activities, taxpayers, tax rates and tax determination methods. For a better understanding of the changes made under the Tax Reform Law, important differences between the Tax Reform Law and the Current Tax Regime are also pointed out.

Before proceeding, please be aware that, to this date, the Tax Reform Law has still not been regulated by the Paraguayan Tax Authority or the Executive.

I. CORPORATE GAIN TAX (“*IMPUESTO A LA RENTA EMPRESARIAL*”)

I - I GENERAL REGIME

1. Taxed income/revenue:

Under this Tax Reform Law, the Corporate Tax and Agricultural Income Tax of the Current Tax Regime have been unified into one tax: the Corporate Gain Tax.

As a consequence, the Corporate Gain Tax will not only tax income or profit derived from commercial, industrial or service activities, but it will also tax income derived from **agricultural activities**. In addition, income generated by assets, rights, obligations as well as any increase in the taxpayer's assets will be subject to the Corporate Gain Tax.

Therefore, profit and income derived from just about all types of economic activity will be subject to this tax, except for those taxed by the Personal Income Tax.

2. Paraguayan source:

The income or profit indicated in the previous paragraph will be subject to the Corporate Gain Tax when they are of Paraguayan source.

Income will be considered to be of Paraguayan source when they come from activities carried out in Paraguay, from assets located in Paraguay or from rights used economically in Paraguay. This is the same both under the Tax Reform Law and the Current Tax Regime.

However, the concept of “Paraguayan source” provided by the Tax Reform Law also includes, in general, any income obtained from activities carried out abroad unless the taxpayer pays, for the same income, an Income Tax abroad, at a rate equal to or greater than the rate of the Corporate Gain Tax. Such income is not included in the concept of “Paraguayan source” provided by the Current Tax Regime.

This inclusion makes the scope of taxation of the Corporate Gain Tax broader in comparison with Corporate Tax and Agricultural Income Tax of the Current Tax Regime.

3. Taxpayers:

The following are taxpayers of the Corporate Gain Tax: one-person businesses (in Spanish, *Empresas Unipersonales*), professional partnerships (in Spanish, *sociedades simples*), companies (such as Joint-Stock Company (S.A.), Limited Liability Company (S.R.L) and others), consortiums incorporated in order to carry out a public work, associations, charitable foundations, cooperatives, mutual organization, public companies, semi private companies, autonomous entities, branches, agencies or permanent establishments of persons domiciled or entities incorporated abroad that carry out taxed activities in the Paraguay and other private entities and companies of any nature.

One of the innovations introduced by the Tax Reform Law is the creation of the concept of Transparent Legal Structures (in Spanish, *Estructuras Jurídicas Transparentes*), which does not exist under the Current Tax Regime. According to Article 4 of the Tax Reform Law, Transparent Legal Structures are those legal structures used as a means of investment, administration or safekeeping of money, goods, rights and obligations such as trusts, investment funds or temporary unions originating from shared-risk contracts (excluding consortiums incorporated in order to carry out a public work).

Transparent Legal Structures are considered taxpayers of the Corporate Gain Tax, though they will be subject to special taxation rules, as provided in Article 4 of the Tax Reform Law, in order to avoid double taxation.

Furthermore, it is worth noting that under the Current Tax Regime, professional partnerships are taxpayers of the personal income tax, yet under the Tax Reform Law they are going to be subject to the Corporate Gain Tax.

4. Tax rate and determination:

The Corporate Gain Tax rate will be of 10% (ten percent), over the net income generated during the fiscal period. The net income will be determined according to the rules established in Article 8, 14, 15, 16, 17, 19 and 20 of the Tax Reform Law. The fiscal period will coincide with the calendar year, though the Tax Authority may set different terms for the fiscal period for certain commercial activities in the future.

I - II SIMPLIFIED REGIMES

The Tax Reform Law created two simplified tax regimes for low and medium income taxpayers that carry out activities taxed under the general regime of the Corporate Gain Tax. These are the Simplified Regime for Medium Enterprises and Simplified Regime for Small Enterprises.

These regimes are going to replace the Small Taxpayer Income Tax and the Small Rural Taxpayer Regime of the Current Tax Regime.

1. Simplified Regime for Medium Enterprises:

One-person businesses and other private entities or companies of any nature not specified in I-I, 3 may opt for this tax regime, when their revenue accrued in the previous fiscal year does not exceed the amount of ₡ 2,000,000,000 (Guarani two thousand millions).

The tax payable under this regime will be determined by applying a 10% (ten percent) rate on the net income, which may be calculated on a real or presumed basis, whichever results in a lower number.

- a) The **real basis** net income will be the result of the positive difference between total revenues and expenses.
- b) The **presumed basis** net income will be the 30% (thirty percent) of the gross annual revenue.

One-person businesses paying tax under this regime will not be taxpayers of the Dividends and Profits Tax.

2. Simplified Regime for Small Enterprises:

One-person businesses may opt for this tax regime when their gross revenue accrued in the previous fiscal year is equal to or less than ₡ 80,000,000 (Guarani eighty million).

The tax to be paid under this regime will consist in a monthly amount to be determined according to the scale provided in Article 27 of the Tax Reform Law, which ranges from ₡ 20,000 (Guarani twenty thousand) to ₡ 80,000 (Guarani eighty thousand) monthly.

These amounts may be updated by the Executive based on the Consumer Price Index.

One-person companies that pay tax under this regime will not be VAT taxpayers.

II. **DIVIDENDS AND PROFITS TAX (“IMPUESTO A LOS DIVIDENDOS Y A LAS UTILIDADES”)**

1. Taxed income/revenue:

Whereas under the Current Tax Regime dividends paid by companies to their shareholders are being taxed by the Corporate Tax or the Personal Income Tax, the Tax Reform Law has created a new tax specifically for this type of income: the Dividends and Profits Tax.

The Dividends and Profits Tax will tax all profits, dividends or returns made available or paid by one-person businesses, joint-stock companies, limited liability companies, consortiums incorporated in order to carry out a public work and other companies or private entities of a similar nature

incorporated in Paraguay, as well as permanent establishments of entities incorporated abroad, to their respective owners, members of the consortium or shareholders.

2. Taxpayers:

Individuals, companies and other entities that have residence in Paraguay or not, that collect dividends, profits or returns as owners, members of a consortium or shareholders of the entities referred to in II. 1. are taxpayers of the Dividends and Profits Tax.

Those who make available or pay the profits, dividends or returns to the aforementioned taxpayers, will be withholding this tax and will be responsible for its payment.

3. Tax rate and determination:

The tax rate of the Dividends and Profits Tax will be the following:

- a) 8% (eight percent), when the recipient of the dividends, profits or returns is an individual, company or entity residing in Paraguay.
- b) 15% (Fifteen percent), when the recipient of dividends, profits or returns is an individual, company or entity not residing in Paraguay (including those obtained by parent companies from abroad).

The tax to be paid will be determined by applying the aforementioned rates on the net profits, dividends or returns.

III. PERSONAL INCOME TAX (“IMPUESTO A LA RENTA PERSONAL”)

The Personal Income Tax regulated by the Tax Reform Law contains several important differences with respect to the Current Tax Regime’s Personal Income Tax.

Particularly, the distinction of the taxable income in 2 (two) categories (such distinction is not made under the current Personal Income Tax), as well as the greater progressivity of the tax rates (the current Personal Income Tax only applies tax rates of either 8% or 10% on the whole taxable net income), makes the new Personal Income Tax more complex than the current one.

1. Taxed income/revenue:

As provided in the Tax Reform Law and the paragraph above, the new Personal Income Tax will tax the following 2 (two) categories of income obtained by individuals:

- a) **Income and profit obtained from capital assets** (those that derive from property, assets or rights, owned by the taxpayer of this tax), except for those taxed by the Dividends and Profits Tax.
- b) **Income derived from the provision of personal services** either independently or under an employment relationship. An individual will not be subject to the payment of Personal Income Tax for their income derived from the provision of personal services, when the total

gross revenue obtained from the provision of personal services during a year does not exceed ₡ 80,000,000 (Guarani eighty million). This amount may be updated by the Executive based on the Consumer Price Index.

The tax to be paid under each of the abovementioned income categories will be calculated and determined separately.

2. Taxpayers:

As a general rule, only individuals residing in the Paraguayan territory, regardless of their nationality, are taxpayers of the new Personal Income Tax. However, Article 49 of the Tax reform Law provides certain exceptions to this rule.

3. Tax rate and determination:

The amount of Personal Income Tax to be paid under the Tax Reform Law will be determined by applying the following rates:

- a) in the case of income and profits obtained from capital assets: 8%. This rate will be applied to the net income determined according to the rules provided in Article 59 of the Tax Reform Law; and
- b) in the case of income derived from the provision of personal services: 8%, 9% and 10%. Each of these rates will be applied to the portion of the annual net income that corresponds to each section of the following scale:

Net income	Applicable rate
Up to ₡ 50,000,000	8%
From ₡50,000,001 to ₡ 150,000,000	9%
From and more than ₡ 150,000,001	10%

So if the annual net income derived from the provision of personal services of a person is ₡ 200,000,000, the Personal Income Tax to be paid by that person will be calculated as follows:

$$₡ 50,000,000 \times 8\% = 4,000,000$$

$$₡ 100,000,000 \times 9\% = 9,000,000$$

$$₡ 50,000,000 \times 10\% = 5,000,000$$

Personal Income Tax to be paid = ₡ 18,000,000.

The net income derived from the provision of personal services will be determined according to the rules provided in Article 63 and 64 of the Tax Reform Law.

IV. NON-RESIDENTS INCOME TAX ("IMPUESTO A LA RENTA DE NO RESIDENTES")

1. Taxed income/revenue:

Under the Current Tax Regime, the income obtained by non-residents through the performance of activities subject to the Corporate Tax and the Personal Income Tax are taxed by the Corporate Tax and the Personal Income Tax, respectively.

However, under the Tax Reform Law, such income will be taxed under a new type of tax: the Non-residents Income Tax. The Non-residents Income tax will tax all income, profit or benefit obtained by individuals, companies and other entities not residing in Paraguay, that are generated from activities subject to the Corporate Gain Tax and the Personal Income Tax. Furthermore, such income, profit or benefit will be subject to this tax when it derives from activities carried out, assets located or rights economically exploited in Paraguay.

Article 73 of the Tax Reform Law describes some specific situations where a non-resident may be subject to the payment of Non-residents Income tax. These descriptions may be considered to be more detailed than those contained in the Current Tax Regime. For instance, the Tax Reform Law mentions that the income derived from the provision of digital services that are used effectively in Paraguay, including entertainment or gambling services, will be taxed under the Non-residents Income Tax, something that the Current Tax Regime does not expressly mention as being taxed for non-residents.

2. Taxpayers:

Individuals, companies and other entities who do not have the status of residents nor have permanent residence in Paraguay will be taxpayers of this tax when they obtain taxed income, profits or benefits, regardless of whether these taxpayers are acting through agents, attorneys-in-fact or representation in the country.

3. Tax rate and determination:

In order to determine the amount of Non-residents Income Tax to be paid, the tax rate of 15% (fifteen percent) shall be applied to the taxable net income. The methods of determination of the net income vary according to the type of revenue or payment, each of them specified in Article 75 of the Tax Reform Law.

As for the payment of this tax, the taxpayers of the general regime of the Corporate Gain Tax, the Paraguayan State and the Municipalities, as well as the individuals who provide independent personal services will withhold and pay the corresponding Non-Residents Income Tax in the way provided in Article 77 of the Tax Reform Law, when they remit or pay the taxed amounts to the taxpayers of this tax.

V. VALUE ADDED TAX (“IMPUESTO AL VALOR AGREGADO”)

1. Taxed activities:

Value Added Tax (or “VAT”) taxes the selling of goods, the provision of services (excluding those provided under an employment relationship) and the import of goods. This is the same both under the Tax Reform Law as well as under the Current Tax Regime.

In general, the Tax Reform Law's VAT does not show substantial differences on regards to the Current Tax Regime's VAT, although there are several details that differ from one and another. Some of the most important ones will be indicated in this section.

2. Taxpayers:

According to the Tax Reform Law, the following will be taxpayers of the VAT: individuals providing personal services (except when they are provided under an employment relationship) or leasing properties, one-person companies, private entities in general, consortiums incorporated in order to carry out a public work, branches, agencies or permanent establishments of persons domiciled or entities incorporated abroad that carry out taxed activities in Paraguay, public companies, semi private companies, autonomous entities, usual and casual importers, Transparent Legal Structures and taxpayers of the Non-residents Income Tax.

3. Tax rate and determination:

The applicable VAT tax rate is of 10%, except in the following cases:

- a) 5% (five percent) for the lease of real estate that is destined exclusively for housing. This is different under the Current Tax Regime, where the 5% (five percent) rate is applied regardless of whether the real estate is destined exclusively for housing or not.
- b) 5% (five percent) for the sale of real estate.
- c) 5% (five percent) for the sale and import of the following products: rice, noodles, vegetable oil, yerba mate, milk, eggs, flour and iodized salt.
- d) 5% (five percent) for the sale and import of the agricultural, horticultural and fruit products specified in article 90 of the Tax Reform Law.
- e) 5% (five percent) for the sale and import of livestock products specified in article 90 of the Tax Reform Law.
- f) 5% (five percent) for the sale and import of medicine of human use.

The aforementioned tax rates will be applied on the taxable amounts. As a general rule, the taxable amount will be the price corresponding to the sale of the goods or the provision of services, though Article 85 of the Tax Reform Law establishes exceptions to this rule.

The Executive may increase, as well as set differential rates, between 5% (five percent) and 10% (ten percent) for the products and services indicated in a), b), c), e) and f).

As a general principle, VAT will be paid in a monthly basis. The amount of VAT to be paid will be determined by the difference between debit VAT and credit VAT.

4. Credit VAT in case of export of agricultural products:

One of the biggest changes made by Tax Reform Law with respect to the current VAT system is related to the credit VAT in case of export of agricultural products.

The Tax Reform Law provides that, in the case of export of agricultural products in their natural state, or those derived from the first process of production or industrialization (e.g. flour), the credit VAT that corresponds to the acquisition of the products that are exported will not be refunded. However, credit VAT corresponding to the acquisition of other goods and services related directly or indistinctly to the export operations may be refunded.

On the other hand, under the Current Tax Regime, 50% of the credit VAT corresponding to the acquisition of the aforementioned products and the services directly or indirectly related to their export is refunded.

VI. CONSUMPTION TAX ON SELECTED GOODS (“IMPUESTO SELECTIVO AL CONSUMO”)

1. Taxed activities:

The Consumption Tax on Selected Goods taxes the import of certain goods specifically indicated in the law, and the first sale of those goods when they are produced in Paraguay. The products affected by this tax are those considered luxury products or non-essential products such as jewelry, beauty products, alcoholic beverages or cigarettes. This is the same both under the Tax Reform Law and the Current Tax Regime.

As in the case of VAT, the Tax Reform Law’s Consumption Tax on Selected Goods does not show substantial changes with respect to the Current Tax Regime’s one. The most notorious change is the increase of the maximum tax rates of certain products. The taxation on “products of high-caloric content” (those packaged products that exceed 500 Kcal per 100 gram) is another notorious change made by the Tax Regime Law, since such products have not been subject to this tax under the Current Tax Regime.

2. Taxpayers:

Are taxpayers Consumption Tax on Selected Goods: one-person businesses, public companies, semi private companies and private entities in general that are:

- a) Manufacturers of the products affected by this tax, for selling them in Paraguayan territory.
- b) Importers of the products affected by this tax, for bringing them to Paraguayan territory.

3. Tax rates and determination:

The Tax Reform Law only provides the maximum limits (and in some cases the minimum limits, as well) of the tax rates to be applied to each product. Products affected by this tax and their maximum rates are specified in Article 115,116, 117, 118 and 119 of the Tax Reform Law.

As expressed earlier in this section, under the new Consumption Tax on Selected Goods, maximum rates of some products were slightly raised in comparison to the rates established under the Current Tax regime. The following are some examples:

- a) Cigarettes and tobaccos: under the Tax Reform Law the maximum rate is of 24%, whereas under the Current Tax Regime is 22%.

- b) Beers with alcohol by volume higher than 0.5% up to 10%: maximum rate is of 10% under the Tax Reform Law, whereas under the Current Tax Regime maximum rate for beer in general is of 9%.
- c) Wines: maximum rate is of 12% under the Tax Reform Law, whereas under the Current Tax Regime maximum rate is of 11%.

The Executive will set the applicable rates for the different types of products, within the limits (maximum and minimum) provided in the Tax Reform Law. That being said, with respect to those products that until the entry into force of the Tax Reform Law were already subject to the Consumption Tax on Selected Goods under the Current Tax Regime, the Executive may not increase their rates until after 1 (one) year from the entry into force of the Tax Reform Law.

As for the amount of Consumption Tax on Selected Goods to be paid, it will be determined by applying the corresponding tax rate to the taxable amount.

As a general rule, the taxable amount will be determined as follows:

- a) In the case of products manufactured in Paraguay, the taxable amount will be the factory sale price, excluding this tax and VAT.
- b) In case of imports, the taxable amount will be the amount in Guarani that is equivalent to the customs value expressed in foreign currency determined by the customs valuation service, to which customs duties and other taxes that affect the operation will be added, and this tax and VAT will be excluded.

Article 112 establishes some exceptions to the aforementioned rules.

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