

Taxation in South America



SdM
Canadian & International Tax

Agenda

- **Overview of Taxation in the Region**
- **Particularities for Construction Market**
- **Review of Major Economies**

1- Overview

Benefits for Canadians

- Developed treaty network with Canada
- Relatively sophisticated tax systems
- Application of treaty benefits
 - May ask for residence certificates
- Use of branches

1- Overview

Challenges for Canadians

- High tax rates
- Withholding taxes
- Value-Added Tax (VAT) may be non-conventional
- Central bank restrictions
- Difficult to repatriate capital
- Branch vs. subsidiary

1- Overview- Tax Data

Country	Tax Rate	WHT Applicable on Dividends (1)	WHT Applicable on Services (2)	Tax Treaty with Canada	Dividend WHT per Treaty (3)	Services WHT per Treaty (2)
Argentina	35%	0%	21%/28%/31.5%	Yes	0%	10%
Brazil	34%	0%	15%-25%	Yes	0%	15%
Chile	20%	18.75%	15%	Yes	18.75%	0%
Colombia	25%+CREE	0%	10%	Yes	0%	10%
Ecuador	22%	0%	22%	Yes	0%	0%
Mexico	29%	0%	25%	Yes	0%	0%
Peru	30%	4.1%	15%-30%	Yes	4.1%	0%
Venezuela	34%	0%	10.2%	Yes	10%	0%

(1) A higher rate may apply in some cases where there is timing differences between FS and Tax Returns

(2) Withholding Taxes applicable to technical services

(3) Lower of domestic and treaty rates. Rate shown assumes a wholly -owned subsidiary owned by a corporation

1- Overview- Tax Data

Country	<u>Tax Rate</u>	<u>WHT Applicable on Dividends</u>	<u>WHT Applicable on Services (1)</u>	<u>Tax Treaty with Canada</u>	<u>Dividend WHT per Treaty (2)</u>	<u>Services WHT per Treaty (1)</u>
Barbados (3)	25%	15%	15%	Yes	15%	15%
Bermudas	0%	0%	0%	No	N/A	N/A
Cuba	35%	N/A	4%	No	N/A	N/A
Dominican Republic	29%	10%	29%	Yes	10%	18%
Haiti	30%	20%	20%	No	N/A	N/A

- (1) Withholding Taxes applicable to technical services
 (2) Lower of domestic and treaty rates
 (3) Rate for IBC is 2.5% but only applicable to activities outside Barbados

1- Overview

Withholding Taxes (WHT)

- WHT
 - Branch vs. subsidiary
- WHT on services can be significant
- Ensure understanding and application of treaty
- Black list for tax havens
- Canadian Foreign Tax Credit (FTC) Regime
 - Competitiveness through use of FTC
 - Clients' request to share the FTC

FTC- Illustration

• Service Revenue Earned Offshore	\$100,000
• Plus Mark-Up	<u>\$17,647</u>
• Total Expense to the Payer	\$117,647
• WHT Tax (15%)	(\$17,647)
• Net Payment Made	\$100,000

FTC- Numerical Illustration

Without FTC	
Services Portion of Contract	\$100,000
Gross-up for WHT	\$17,647
Deduction(May not be permitted)	(\$17,647)
Total Revenues	\$100,000
Profit (=30%)	\$30,000
Tax in Canada (= 25%)	\$7,500
After-tax Cash	\$22,500
Taxes paid by You	\$7,500
Taxes paid by client	\$17,647

FTC- Numerical Illustration

With FTC	
Services Portion of Contract	\$100,000
Gross-up for WHT	\$17,647
Total Revenues	\$117,647
Profit (=30%) + WHT	\$47,647
Tax in Canada (= 25%)	\$11,900
Less: FTC	(\$11,900)
After-tax Cash	\$30,000
Taxes paid by You	\$0
Taxes paid by client	\$17,650

2-Construction Market

- Local Presence → Permanent Establishment (PE)
 - Branch vs. subsidiary
- Withholding on technical services
- Consortiums/Joint-Ventures
- VAT regime
- Portion for procurement
 - Split scope vs. two contracts
- Use of subcontractors and VAT implications

3-Specific Countries

Brazil

- Non-conventional PE application
- Very high tax rates
- WHT applied at large
- Barriers to entry, customs on services
- Multiple indirect tax regimes
- Costly transfers of employees to local subsidiary
- High social security
- Proposed recoverability of WHT if no local presence

3-Specific Countries

Chile

- Member of OECD
- Relatively sophisticated
- Favorable treaty with Canada
 - No WHT on services
- High dividend WHT
 - Two-tier taxation regime
- Limited use of upstream loans

3-Specific Countries

Colombia

- Tax reform in 2012
- Intercompany loans are now allowed
- New treaty with Canada effective in 2013
 - Application not yet tested
- CREE tax rate of 9%
- Specific VAT regime for construction
- Retention on payments
- Municipal tax (ICA)
- Tax on financial transaction

3-Specific Countries

Mexico

- Member of OECD
- One of the lowest effective tax rate
- Employee profit sharing
- Treaty benefits not consistently applied
- Two tax regimes: corporate tax & flat tax

3-Specific Countries

Peru

- Favorable treaty with Canada
 - No WHT on services
- Easy to create PE
- May have multiple PEs
- Strict transfer pricing requirements
- No VAT refund

Questions?

SdM

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