Venezuela

Capital city:
Caracas

Aera:
912,050 km^2

Population:
26,420, 000

Language:
Spanish

Political system:
Federative presidential republic

GDP/capita 2015:
USD 14,414

Currency:
Venezuelian Fuerte Bolivar (VEF)

ISO Code:
VEN

Telephone code:
+58

National day:
5 July

Venezuela

GENERAL COMMENTS:

The value of the Tax Unit (TU) for the year 2015 is 150 Venezuelan Bolivar Fuerte (VEF).

Currently Venezuela has entered into comprehensive tax treaties with Austria, Barbados, Belarus, Belgium, Brazil, Canada, China, Cuba, the Czech Republic, Denmark, France, Germany, Indonesia, Iran, Italy, Korea, Kuwait, Malaysia, the Netherlands, Norway, Portugal, Qatar, Russia, Spain, Sweden, Switzerland, Trinidad and Tobago, the United Arab Emirates, the United Kingdom, the United States, and Vietnam. When there are no Treaties subscribed by Venezuela with a given country, the Income Tax Law provides all the mechanisms to be applied.

1. Taxation of individuals

1.1 Residence

An individual is considered to be a tax resident of Venezuela if they stay in the country for more than 183 days during the calendar year, or in the previous calendar year. Individuals who have established their residence or home in the country are also considered tax residents, except if they remain in another country for a consecutive or non-consecutive term of 183 days during the calendar year, and have acquired evidence of residency in that other country for tax purposes.

Venezuelan income tax system is based on a worldwide basis, at a progressive rate from 6% to 34%. Withholding income tax applicable to some taxed activities (services)

1.2 Charge on non-residents

Nonresidents are taxed in Venezuela for any net income from Venezuelan sources. An individual is considered to be a tax nonresident of Venezuela if they stay in the country for 182 days or less during the calendar year and have not qualified as a resident in the preceding calendar year.
Nonresidents are subject to a 34% flat tax rate on any income from Venezuelan sources.

1.3 Categories of income

Employment income

Taxable employment income is the income earned for personal services rendered in Venezuela, regardless of where the income is paid or how is paid. This income is considered to be net income.
Many indemnities received by employees or their beneficiaries and travel-expense reimbursements related to rendering personal services are excluded from total income.
Non-tax residents are subject to a final withholding tax at a flat rate of 34% on their income from Venezuelan sources.

Business income

Annual gross income in excess of 1,500 tax units or net taxable income in excess of 1,000 tax units must be formally declared. To determine net taxable income, individuals may deduct all costs and expenses necessary to produce self-employment and business income.
Nonresident individuals are subject to a final withholding tax at a flat rate of 34% on income derived from Venezuelan sources.

Directors' fees

Directors' fees relating to activities performed in Venezuela and received from resident companies are taxed as employment income at the rates described in Rates.
In addition, an individual is subject to social security contributions on directors' fees. The contribution is based on a percentage of monthly salary earned.

Dividends

Taxable dividends from Venezuelan domiciled entities would be the amount distributed equivalent to the accumulated earnings on financial statements not taxed at the corporate level, imputed according to certain rules of the distribution. Moreover, taxable dividends from foreign entities would be on 100% of the dividend paid for residents, and it will be subject to a proportional tax rate of 34%. The tax withholding rate for dividends paid by a Venezuelan entity would depend on the payer's activities, as follows:

- 50% if the payer is a local company dedicated to hydrocarbons and related activities;
- 60% for dividends related to royalties and other similar participation on mining activities;

- 34% if the payer is a company engaged in other activities;
- 34% if a company domiciled abroad (other than hydrocarbons) pays dividends to domiciled entities/ residents in Venezuela.

Interest

- Interest income obtained from a savings account in local banking institutions is not taxable.
- Interest from foreign institutions would be taxable for Venezuelan residents; they are added to the taxable income and taxed at the progressive tax rates.

Rental income

Rental net income (expenses-related activities are deductible) is included in the total taxable income. They are added to the taxable income and taxed at the progressive tax rates.

1.4 Rates and allowances

Resident individuals are subject to the progressive tax rates of Tariff No. 1, which are applied to taxable income expressed in tax units:

Tariff No. 1		
Taxable income		Rate%
Exceeding Tax units	Not exceeding Tax units	
0,0	1,0	6,0
1,0	1,5	9,0
1,5	2,0	12,0
2,0	2,5	6,0
2,5	3,0	20,0
3,0	4,0	24,0
4,0	6,0	29,0
6,0	-	34,0

Personal allowances

Resident individuals are allowed to deduct the following items from gross income:

- Mortgage interest payments for a principal dwelling, limited to an amount equivalent to 1,000 tax units, rent payments for a principal dwelling, limited to an amount equal to 800 tax units.
- Payments to educational institutions in Venezuela for taxpayers and their

children under age of 25 years. The age limit does not apply to expenses incurred on the education of handicapped children and adults under the tutelage of the taxpayer.

- Premiums for surgery, hospitalization and maternity insurance paid in Venezuela to domiciled companies (no limit).
- Medical, dental and hospitalization expenses incurred in Venezuela for the taxpayer, spouse and ascendants or descendants (no limit).

Taxpayers must keep the documentation (invoices) supporting the deductions mentioned above.

Tax residents may opt for a standardized deduction equal to 774 tax units, instead of all of the deductions mentioned above. No supporting documentation is required for this standardized deduction.
Deductible expenses incurred in Venezuela may offset only Venezuelan-source gross income. Foreign-source deductible expenses may offset only foreign-source income. The supporting documents for the tax return must contain the taxpayer's tax information number.

Resident individuals receive an additional annual personal rebate of 10 tax units. They are also entitled to a family rebate of 10 tax units for each family member who lives in Venezuela and has attained the legal age required by Venezuelan law.

Individuals may deduct all expenses necessary to produce self-employment and business income.

1.5 Capital Gains

Capital gains derived from the sale of shares registered on the Venezuelan stock exchange are subject to a 1% tax on the gross amount. Rest of capital gains are taxed with other income according to the Tariff No. 1

Losses on sales of shares registered on the Venezuelan stock exchange may not be deducted from other income.

In Venezuela there are no municipal or local taxes on capital gains. There is a municipal tax on economic activities that is calculated on gross income.

1.6 Stock Options

Residency Status	Taxable at		
	Grant	Vest	Exercise
Resident	No	No	Yes
Nonresident	No	No	Yes
Other (if applicable)	No	No	Yes

2. Taxation of companies

2.1 Types of companies

There are 4 basic types of business entity under Venezuelan law:

- compañía Anónima or Sociedad Anónima (Corporations);
- sociedad de Responsabilidad Limitada—SRL (limited liability partnership), which combines features of a partnership and a corporation but is seldom used by manufacturing firms;
- sociedad en Nombre Colectivo (General partnership); and
- compañía en Comandita (Limited Partnership), which includes:

  - compañía en Comandita Simple (Simple Limited Partnership), and
  - compañía en Comandita por acciones (Limited Partnership by shares)

The Compañía Anónima or Sociedad Anónima is the most popular form. Are there variations in this type of society: SAICAs and SACAs, which do not seem really attractive to investors, except for the bank industry in Venezuela.
The Venezuelan Commercial Code establishes the figure of the Firmas Personales (sole proprietorship), which is not considered a company, but it allows a person to develop a certain activity without the need to incorporate a company.

2.2 Residence

A company is resident in Venezuela for tax purposes if it is incorporated or domiciled in Venezuela, and is subject to tax on their worldwide taxable income.

2.3 Charge on a nonresident company

Nonresidents are taxed only on Venezuelan- source income. Foreign enterprises that conduct business in Venezuela through a permanent establishment (PE) are subject to income tax on foreign and Venezuelan-source income attributable to the PE.

2.4 Definition of the subsidiary

Subsidiaries and branches as well as representation offices can be established by the investor. Branches are treated by the Venezuelan Commercial law as local corporations; therefore, branches are authorized to carry out business without other limitations than the legal provisions applicable to companies organized in Venezuela. Branches are not regarded as different or autonomous entities, so parent companies retain full liability for the branch's operations. In terms of limits of liability, even though an amount of capital must be allocated to the branch by the parent company, branches' liability is determined by the parent company's capital. The cost of the registration of a subsidiary or a branch office depends on the amount of its registered capital.

Companies may be formed with up to 100% of foreign ownership and may remain as foreign owned companies indefinitely, except by certain sectors such as Oil & Gas, television and others.

2.5 Calculation of taxable profit

The taxable base of the income tax is the net income earned within a fiscal year. Taxable profit depends on the income obtained in the country, which is taxed, as well as the income obtained abroad for those considered as residents or other parties domiciled in Venezuela. In this way, Venezuelan income tax system is based on a worldwide basis, at a progressive rate from 6% to 34%. Withholding income tax applicable to some taxed activities (services).

Non-domiciled entities with a permanent establishment in Venezuela must pay taxes based on the profits from territorial or extraterritorial sources from such permanent establishments. The net income is the basis for the calculation of taxes. The net taxable profit is represented by any increase of patrimony derived from subtracting from gross income all costs and deductions established by the Law. Transfer price regime is based on the parameters of the OCDE guidelines.

Among others, the following are considered Venezuelan source income:

- royalties, rights of use of trademarks and other similar benefits;
- income obtained from permanent establishments or fixed places of businesses located in Venezuelan territory;
- considerations for all types of services, credits or any other type of work or capital compensation performed, benefited from or used in Venezuela;
- income derived from production and distribution of films and similar items for cinema and television;
- income derived from shipment of goods in consignment from foreign countries;

- income of insurance or reinsurance companies not domiciled in the country and without a fixed place of business in the country;
- income derived from real property located in Venezuela, or from rights or liens imposed on real property;
- revenue from personal property values, issued by companies incorporated or domiciled in Venezuela, or by foreign companies with a fixed place of business in Venezuela, money, goods, rights or other personal assets invested or located in Venezuela;
- likewise, revenue from derivatives of such personal property values shall be considered as derived from a territorial source, except ADRs, GDRs, ADSs and GDSs;
- revenue from all types of patrimonial elements located in Venezuela.

The gross income of foreign source is determined by subtracting from the gross income of foreign source and the costs attributable to such income. The taxable net income is represented by the sum of any net profit obtained within the Venezuelan territory plus the net profit obtained abroad. However, it is not admissible to impute losses of foreign source to the profit or loss of territorial source. Thus, the inflation adjustment must be made that can result either an additional income or a loss depending on the non monetary items.

2.6 Rates of tax

Tariff No. 2		
Taxable income		Rate%
Exceeding Tax units	Not exceeding Tax units	
0	2.000	15
2.000	3.000	22
More than 3.000		34

Tax incentives for investors. The income tax law establishes a reduction of the income tax due to investments in new assets (excluding land) made by companies developing industrial, agro-industrial, construction, telecommunications activities and those related to science, technology and in general any industrial activity that represent and investment in advance or cutting edge technology. This reduction will be of the order of 10% of the amount of the new investments the company engages to develop in those areas.

2.7 Dividends

Dividends are taxed at a flat rate of 34% on the positive difference between book income and tax income. To determine the applicable difference a LIFO method applies. Withholding is to be made at the moment a dividend is declared or credited to the account of the recipient.

2.8 Capital gains

Capital gains derived from the sale of shares registered on the Venezuelan stock exchange are subject to a 1% tax on the gross amount. Rest of capital gains are taxed with other income according to the Tariff No. 1
Losses on sales of shares registered on the Venezuelan stock exchange may not be deducted from other income.
In Venezuela they are not municipal or local taxes on capital gains. There is a municipal tax on economic activities that it's calculated over gross incomes.

2.9 Declaration and payment

Income tax is paid annually and taxpayers have a term of three months from the end of their fiscal year to file income tax returns and to pay income taxes.
Within the second half of the ninth month following the end of its fiscal year, an estimated tax return must be filed. The amount of the net income reflected in the estimated tax return may not be less than 80% of the total net income of the preceding fiscal year. The amount of the Tax Paid with the estimated return is an advance payment of the tax payable for the correspondent fiscal year.
When filing an estimated tax return, the income tax determined is paid monthly, as an advance payment of the tax payable for the correspondent fiscal year.

3. Deduction at source

A withholding tax at source is mandatory in Venezuela, mainly for services-related concepts.

4. Value added tax

4.1 Principles

The Value-added tax (VAT) is applicable to economic agents. The following categories of taxpayers are subject:

- individuals or companies usually selling tangible goods;
- importers of tangible goods and services;
- individuals or companies usually performing services of an independent nature.

The process of application will depend on the kind of tax incentive and on certain particular circumstances (i.e. emergency situations, special rules regarding

some activities considered of major importance).

4.2 Rates of tax

The general tax rate is 12%.

The additional tax rate for luxury consumption is 15% and may be modified at the discretion of the executive branch to a maximum rate of 20%. Is there a list of luxury goods and services subject.

4.3 Declaration and payment

VAT is paid monthly and taxpayers have a term of 15 days from the end of each month to file VAT returns and to pay it.

5. Taxation of states

States have no taxes, except the stamp duty. Local authorities of Municipios (municipalities) can grant certain tax incentives, as long as the tax is under their jurisdiction. Those grants might be limited to certain activities that are considered necessary in the region or that the authority wishes to develop.

These incentives might also be granted for a determined period of time, as an incentive for the business to choose the region to develop their economic activities. The process of application will depend on the region, on the kind of tax incentive and on certain particular circumstances (i.e. emergency situations).

6. Stamp duty

The Law on Stamp Tax establishes a number of stamp duties on the issuance of official documents (e.g. certificates, permits, authorization, registrations, incorporations). Stamp duties may be levied at fixed amounts (ranged from 0.01 TU to 10,000 TU) or at a rate based on the value of the transaction on work in question.

7. Social security contributions

Social Security contribution is to be paid monthly to the Venezuelan Institute of Social Security (IVSS). The taxable base is determined on the employee's monthly payment. The applicable rates are: 4% for the employee and between 9% and 13% to the employer.

8. Other taxes

8.1 Municipal business license tax

Is a tax applied by local governments to commercial or industrial activities carried out within their jurisdiction.

8.2 Science Technology and Innovation contribution

Applies on entities with gross income from 100,000 UT, at a tax rate of 0.5%, 1% or 2% depending on the activity carried out by the taxpayer. The return must be filed on the same date as the income tax return before the National Observatory of Technology through their web-site.

8.3 Sports, Physical Activity, and Physical Education Contribution

Is payable by all companies or other public or private organizations that perform economic activities within the country and obtain an annual net or accounting profit of more than TU 20,000. Up to 50% of the contribution can be for the implementation of the taxpayer's own projects, provided the respective project follows the guidelines to be issued by the National Sports Institute, which will be updated every 2 years.

8.4 Anti-drugs contribution

Any company employing 50 or more employees must make an annual contribution from their operating profit equivalent to 1%, except Corporations with the specifications mentioned before but that are dedicated to the manufacture or import of alcohol beverages, tobacco, or their mixtures that are required to make a contribution equivalent of 2% from their operating profit.

8.5 Unemployment relief benefit contribution

To be paid by any company no matter number of employees, equivalent to 2%

over the gross amount of salaries.

8.6 Employee training contribution (INCEs)

The basis is the total salaries paid by the employer, and the contribution is 2% to be paid by the employer, and 0.5% to be paid by the employee.

8.7 There is not an applicable wealth tax

8.8 There are not taxes on capital.

9. Exchange controls

Currency exchange is controlled by the Government; the Venezuelan Central Bank has the exclusive right to perform currency exchange activities through its authorized dealers (Banks and other financial institutions). The official Exchange rate is fixed by the government. The National Foreign Trade Center (CENCOEX) is the governmental office in charge of administering the exchange control regime. Currency exchange activities performed outside the authorized financial institutions are strictly forbidden and penalized. The Law on Foreign Exchange Crimes establishes several requirements for business transactions in foreign currency and penalizes foreign exchange transactions that violate the exchange control regime, the purchase of foreign currency under false pretences and the use of foreign currency purchased from the Central Bank for purposes different from those that induced the acquisition request and authorization. This Law also imposes criminal sanctions on those who publicly or privately offer goods and services nominated in foreign currency, in contravention to the applicable laws, and exporters who do not reintegrate or sell to the Central Bank the export proceeds. All foreign currency that enters the country must be sold to the Central Bank at the official exchange rate. In the same way, all transfers out of the country must be intermediated by the Central Bank. In both cases, there is a strict control of the legality of those transactions, which must be within the scope of the authorized transactions regarding the Exchange Control Law.

Foreign investors can acquire foreign currency from the Central Bank for dividend remittances abroad and for the recovery and remittance of divestments. Foreign investors must have previously registered their investment with the SIEX (see Question 2).

There are several reporting requirements for every transfer of money in or out of the country. These requirements will vary depending on the reason of the transfer.

Finally, it is important to note that according to the reform of the Law on Foreign Exchange Crimes (from May 17, 2010) hard currency can be taken out of the country, by individuals or companies, only up to the limit of USD 9,999, or the equivalent in another currency, without any need to declare the nature of the action.