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TAX UPDATE: LAW 31 OF 2011

Panama Legislature enact a new Tax Law

Law 31 of 2011, published in Official Gazette N° 26757-A, “Whereby the Fiscal Code is amended and other tax measures are adopted” introduces changes to the obligations of taxpayers, among which we highlight the following:

A. Income Tax on capital gains for the transfer of a property.

- Renewal of the immediate benefit, applicable to all taxpayers who decide voluntarily and not later than 31 December 2011, to submit to the Ministry of Economy and Finance (MEF) an affidavit of the estimated value of its property, along with an appraisal performed by a real estate appraisal company, so that, once MEF approves this value, it is taken as the basic cost of the property, applicable to the capital gains tax at the time of its transfer.
- Also, the benefit of applying the flat fee of 1% to estimate the property tax remains, instead of the progressive rate reaching up to 2.10% on the rateable value of the property.

B. Income Tax Statement.

- Corporations that generate taxable income have the obligation to pay a monthly advance on income tax equivalent to 1% of total taxable income of each month from 1st January 2011. The new law establishes the procedure for such payment.

C. Dividend Tax.

- It is established as a new obligation the payment of a 10% dividend tax on any loan or credit that a company grants to its shareholders, including cases where the dividend payable tax is 5%.
- As of 1st January 2012, all dividends paid or credited on cumulative preferred shares issued by corporations will not cause this tax, provided that certain conditions set forth in the law are met.

D. Tax on the Transfer of Movable Goods and the Rendering of Services (ITBMS)

New exemptions to this tax are established, as follows:

- Concrete, additives and its derivatives made by subcontractors to contractors of the Panama Canal Authority for the execution of the design and construction project of the third set of locks in the Panama Canal and vehicular crossing on the Atlantic side of the Panama Canal, pursuant to in Law 28 of 2006, as well as the incorporation of raw materials to produce concrete, by subcontractors of contractors of the Panama Canal Authority for those projects.
- Services related to the preparation and delivery of concrete at the jobsite, additives and its derivatives made by subcontractors to contractors of the Panama Canal Authority for the execution of the design and construction project of the third set of locks in the Panama Canal and vehicular crossing on the Atlantic side of Panama Canal, pursuant to Law 28 of 2006.