



2009 & 2010 TAX REFORMS IN PANAMA

Part II

Law 8 of March 15, 2010 (as published in the Official Gazette 26489 A as of March 15, 2010) contains comprehensive amendments to Panama's Fiscal Code, including reduction in the corporate and income tax rates and an increase in the current ITBMS (*Impuesto de Transferencias de Bienes, Muebles y Servicios*) rate ("Law 8").

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Law 8 is a second tax reform recently carried out by the Government of Panama seeking to collect revenue to fulfill its educational, health and social projects.

Law 49 of September 17, 2009 (as published in Official Gazette 26370 C of September 17, 2009) became effective in September 2009 and introduced important changes in the tax system, such as extending the scope of the dividend tax to dividends paid out of foreign source income and to Colon Free Zone corporations ("Law 49").

We have prepared a two-part summary of these important legislative developments: Part I covering Law 49 and Part II covering Law 8.

SUMMARY LAW 8 OF MARCH 15, 2010

A. Annual franchise tax

Law 8 introduces a change in the US\$ 300 fine for lack of payment of the annual franchise tax. Now, said fine is to be paid for lack of payment of tax during three consecutive years, (instead of prior two consecutive periods) and exempts from payment of tax national or foreign non-profit associations, civil partnerships and cooperative associations.

B. Panamanian local income

Panamanian local income subject to income tax:

1. Income from personal labor consisting of salaries and other remunerations paid to State diplomatic and consular officials or to any other State officials performing their services outside of the country.
2. Income from personal labor remunerated by wages, salaries, representation expenses or other remuneration in cash or in kind paid to workers or professionals.



3. Income from international transportation enterprises regarding freight, tickets and other services which place of origin or destination is Panama.
4. Income from services rendered by international telecommunication enterprises established in Panama.
5. Income from services or acts performed by individuals or juridical persons domiciled outside of Panama provided said services or acts are rendered to national or foreign individuals or juridical persons in Panama.

C. Income Taxation

Law 8 modifies tax rates for individuals, juridical persons and for some specific types of Corporations, as follows:

1. Income tax rates for juridical persons:
 - 27.5% as of January 1, 2010
 - 25 % as of January 1, 2011
2. Special income tax rates for corporations engaged in power generation and distribution, telecommunications services, insurance and reinsurance business, fabrication of cement, gaming and casinos, mining and financial and banking institutions:
 - 30% for years 2010-2011
 - 27.5% for years 2012-2013
 - 25% for year 2014 and subsequent years
3. Income tax rates for individuals:

Taxable income (US\$)	Tax rate
From 0 to \$11,000	0%
From \$11,001 to \$50,000	15%
Over \$50,000	25%

D. Agricultural activities

Corporations engaged in agricultural activities with income no higher than \$250,000 shall be income tax exempt.



E. Advance payment of income tax

Law 8 introduces a monthly advance payment of 1% rate calculated on gross taxable income with any adjustment between the actual income tax assessment and the monthly advance payments made in the annual income tax return. Any excess tax paid may be used as a credit against future monthly advance payments, to pay other taxes or to be refunded. This advance payment of income tax to become effective as of January 1, 2011.

F. Sale of Real Estate Properties

Law 8 introduces computation rules for income tax regarding certain cases as follows:

1. Real estate sale provided the same is within taxpayer's ordinary course of business applicable rate shall be 3.75%
2. Transfer of real estate and services performed to individuals or juridical persons established in Colon Free Zone or in any other tax free zone. Said transfer is now subject to payment of income tax.

G. Dividends tax

Law 8 introduces rules on dividends tax as follows:

1. Corporations when distributing dividends or profits to their shareholders must withhold 10% of such amounts from Panamanian source income and 5% of such amounts from tax exempt income or foreign and/or export source income.
2. Colon Free Zone corporations when distributing dividends or profits to their shareholders must withhold 5% of such amounts. Dividends or profits must be distributed in the following order (depending on source of income):
 - a. From Panamanian source or local operations
 - b. From foreign source or export operations
 - c. From tax exempt income as determined by Fiscal Code.

H. Real estate tax

Tax exemption over first US \$30,000 will not benefit lots of real estate properties under Horizontal Property Regime.



Law 8 establishes an alternative tax rate. To take advantage of said rate owners of real estate improvements must submit a reassessment of the land.

I. Tax on Notice of Operations

Commercial or industrial enterprises are required to obtain a Notice of Operation to carry on their activities. An annual notice of operation tax is levied at the rate of 2% on the capital of the company concerned. This tax on notice of operation ranges from a minimum of \$100 up to a maximum of \$60,000.

For Colon Free Zone corporations said rate is 1% and ranges from a minimum of \$100 up to a maximum of \$50,000.

Individuals or juridical persons that have an invested capital no higher than US \$10,000 will be exempt from said tax.

J. Tax on navigation in jurisdictional waters of Panama

Law 8 modifies tax on navigation in jurisdictional waters of Panama as follows:

<u>Amount of tax (US\$)</u>	<u>Prior tax</u>
Owners of boats and yachts destined to a particular use:	
Up to 6 meter length	\$24.00 same
Over 6 meter to 10 meter length	\$120.00 same
Over 10 meter length	\$240.00 same
Owners of foreign registry boats and yachts destined to a particular use (on a temporary basis up to 1 year (3 months before) and extended for same period if necessary)	
Up to 6 meter	\$45.00 \$15.00
Over 6 meter to 10 meter length	\$90.00 \$30.00
Over 10 meter length	\$180.00 \$50.00

K. Tax on banking institutions

A special tax is levied on exchange houses and all banks established in Panama except State owned banks, which was modified by Law 8 as follows:



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Type of financial institution (PAB)	Amount of tax (US\$)	Prior tax
1. Banks with general license		
Up to \$100 million in total assets	\$75,000	\$50,000
\$100 millions to \$200 million in total assets	\$125,000	\$75,000
\$200 millions to \$300 million in total assets	\$175,000	\$100,000
\$300 millions to \$400 million in total assets	\$250,000	\$175,000
\$400 millions to \$500 million in total assets	\$375,000	\$250,000
\$500 millions to \$750 million in total assets	\$450,000	\$300,000
\$750 millions to \$1,000 million in total assets	\$500,000	\$325,000
\$1,000 million to \$2,000 million in total assets	\$700,000	\$350,000
Over \$2,000 million in total assets	\$1,000,000	-----

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During their first year of operation the new banking entities with general license are required to pay 50% of this annual tax.

2. Banks with international license	\$75,000	\$50,000
3. Banks of investment promotion and micro-finance	\$30,000	\$15,000
4. Exchange bureau	\$10,000	\$2,500

L. Tax on transfer of tangible personal goods and rendering of services

This tax known by the Spanish acronym of ITBMS is the Panamanian version of a Value Added Tax (VAT).

In general all transactions involving the transfer of tangible personal property (commodities and products) are subject to the ITBMS, as well as the rendering of services.

Prior 5% tax rate was increased to 7% tax rate as of July 1, 2010.

This tax applies to the following activities:

1. Services rendered by professionals and traders, except services based on a labor dependency relationship as defined by Labor Code and services rendered to the State.
2. Public shows, events, seminars, conferences, artistic or musical presentations, sport events in Panama.
3. Local and international air transportation of passengers.
4. Public lodging and accommodation services
5. Loading and unloading operations in ports, logistic and ancillary services rendered in connection with cargo in ports and tax free or special economic

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zones, repair, maintenance and cleaning services rendered to vessels in transit in territorial waters.

Tax exemptions include:

1. transfer or crude oil, diesel, light diesel, gasoline, fuel oil, bunker, jet fuel, kerosene, turbo fuel, lubricant oils, natural gasoline;
2. medical and pharmaceutical products and services;
3. Services rendered by persons with an annual gross income no higher than \$36,000.

Professionals or individuals under civil partnerships subject to payment of the ITBMS are obligated to file the ITBMS return on a quarterly basis.

M. Selective Consumption tax

Services subject to the Selective Consumption tax include mobile telecommunication and cable or satellite television, as well as the amount of winnings paid by slot machines, as follows:

1. Automobiles for transportation of passengers

CIF value is no higher than \$8,000	18%
CIF value is higher than \$ 8,000 and less than \$20,000	23%
Which CIF value is higher than \$20,000	25%
2. Electric and hybrid vehicles- 0% until December 31, 201 and 5% as of January 1, 2013.
3. Vehicles adapted for handicapped passengers 5%
4. Vehicles for transportation of goods 12%
5. Vehicles for commercial transportation of cargo 10%
6. Vehicles for transportation of passengers 10%
7. Vehicles acquired under Law 40 of 1984 5%
8. Motorcycles with more than 125 cc, 75 cc outboard motors, yachts, sail boats, vessels, jet skies, private airplanes and helicopters 10%
9. Jewelry and firearms 10%
10. Cable or satellite TV services, mobile telephone services 5%
11. Prizes over US \$300 won in slot machines 7%



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N. Tax Administrative Tribunal

Law 8 creates a Tax Administrative Tribunal which will be formed by three members (two attorneys and one CPA) . Each of the members to be appointed by the Executive for a 5-year period and with qualifications and functions as established by law. The Tribunal will be acting as of January 1, 2011.

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