HONDURAS

Law and Practice

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1. Types of Business Entities, Their Residence and Basic Tax Treatment

1.1 Corporate Structures and Tax Treatment

Businesses generally adopt a corporate form. Regardless of the corporate form adopted by the business, each entity is taxed as a separate legal entity from its members, partners or shareholders. The Honduran Commercial Code regulates six basic types of corporate entity, as follows:

- general partnership (*Sociedad Colectiva*);
- limited liability company or LLC (*Sociedad de Responsabilidad Limitada*);
- limited partnership (*Sociedad en Comandita Simple*);
- stock corporation (*Sociedad Anónima*);
- corporation by stocks (*Sociedad Comandita por Acciones*); and
- co-operative business (*Sociedad cooperativa*).

Foreign corporations may organise branches.

The most used corporate form is the stock corporation (*Sociedad Anónima* or SA). American corporations often adopt the corporate form of a limited liability company (*Sociedad de Responsabilidad Limitada* or SRL) for their subsidiaries, to achieve look-through tax treatment under US law.

As mentioned above, the corporate entity is taxed separately and must obtain a separate taxpayer number.

There is also the option to organise the corporation (by stocks or the limited liability company) through a simplified form that can be signed online or physically at the Commercial Registry. By relying on a special law, corporations of any kind can be organised as *"one-person company"*, according to the characteristics of each corporation.

However, the following companies cannot be organised through this process:

- companies supervised by the National Banking and Insurance Commission (CNBS);
- companies dedicated to mining, forestry or other exploitation of natural resources;
- special purpose companies created for the execution of public-private partnership projects; and
- companies dedicated to providing security services.

1.2 Transparent Entities

Under local law, there are no transparent entities for tax purposes. However, the Honduran LLC is commonly used by US corporations to achieve transparency before the US tax authorities.

1.3 Determining Residence of Incorporated Businesses

There are no double taxation treaties in Honduras.

Honduran tax law sets certain standards regarding residence in corporations. A corporation will be considered *"resident"* for tax purposes if:

- it has been organised under Honduran law; and
- it has been incorporated in Honduras.

A company is regarded as having a permanent establishment if it meets the following.

- Maintains fixed places or centres of economic activity, such as:

  - (a) any activity management centre;
  - (b) any branch, agency or office that acts in the name and on behalf of a foreign company;
  - (c) factories, workshops, real estate or other analogous installations;
  - (d) mines, mineral deposits, quarries, forests, factories and other exploitation centres for the extraction of natural resources; and
  - (e) warehouses for merchandise deposits intended for internal trade and not just demonstrations or exhibitions.
- Has an office for:
  - (a) the practice of technical, financial, or consulting of any nature to develop projects related to contracts or agreements made inside or outside the country; and
  - (b) the provision of services useable by people who work in public entertainment, such as the theatre, film, television, the arts and radio, as well as musicians, athletes, salesmen of air tickets and maritime navigation or transportation, to be used in Honduras or outside of it.

It is also regarded as having a permanent establishment in Honduras if a person or entity acting on behalf of the company, holds or habitually practices some economic activity in the country.

Non-resident natural or legal persons in Honduras who obtain income from Honduran sources are taxed according to the following rates:

- income from movable or immovable property: 25%;
- royalties from mining operations, quarries or other natural resources: 25%;
- payments, salaries, or other monetary compensation for provided services: 25%;
- income or earnings obtained by foreign enterprises through branches, subsidiaries, affiliate offices, agencies, legal representatives and others that operate in Honduras: 10%;
- income, earnings, dividends or other participation in profits or reserves of natural or legal persons: 10%;
- royalties and other monetary compensation provided using patents, designs, and processes, trade secrets, trade marks and copyrights: 25%;
- interests in commercial operations, bonuses, securities or other types of obligations: 10%;
- income from aircraft operations, boats and cars: 10%;
- income from communication enterprises operations, software use, computing solutions, telematics and other forms of telecommunications: 10%;
- insurance and bond premiums or any other type of subscribed policies: 10%;
- income coming from public shows: 25%;
- movies and videotapes for cinemas, television, video clubs and rights for cable television: 25%; and
- any other income not mentioned above: 10%.

Those who make payments are responsible for withholding and paying the corresponding tax.

1.4 Tax Rates

Legal entities will pay a rate of 25% on their total net taxable income.

Honduras has a progressive income tax rate for resident or domiciled natural persons of 15%, 20% or 25% depending on the amount of the individual's taxable income. Sole traders pay taxes according to natural person's rates. From the progressive tax table for 2025 the amount of HNL217,493.16 is exempt from tax. Therefore, the tax to be calculated must be considered from that starting point.

Natural or legal persons with a gross income greater than HNL1 billion in the previous fiscal period must pay 1.0% of their gross income if the 25% rate on their net taxable income is less than 1.0% of their declared gross income. This rate will be reduced to 0.5% for certain sectors.

In the case of air, land and maritime transport companies established abroad and operating in the country, a taxable net income equivalent to 10% of the total annual gross income from Honduran sources will be taken for tax calculation purposes. The income tax rate applicable to this amount will be 25%. The agents or agencies established in the country will be considered representatives of these companies.

2. Key General Features of the Tax Regime Applicable to Incorporated Businesses

2.1 Calculation for Taxable Profits

As a rule, profits are taxed based on the accounting profits subject to some adjustments. The most common tax adjustments are certain limits to deductible expenses. Profits are taxed on an accrual basis.

2.2 Special Incentives for Technology Investments

In Honduras there is the Promotion and Development of Science, Technology, and Innovation Act, which establishes tax incentives to support investments in these areas. However, there are currently no incentives directly applicable to technology investments in Honduras.

There is a draft Amendment Law that has been put before the Honduran National Congress for discussion. This includes various tax incentives.

2.3 Other Special Incentives

There are currently tax incentives for the following industries:

- power generation using clean energy technology (renewable energy);
- industrial processing areas for exports (*"ZIP"*) as qualified by the Secretary of Economic Development;
- BPO and/or call centre services online for local and/or foreign clients/users;
- free trade zone (*"ZOLI"*), qualified by the Secretary of Economic Development;
- tourism industry, qualified by the Honduran Tourism Institute;
- tourism industry in the Bay Islands as qualified by the *"ZOLITUR"*;
- medium and small businesses (*"MYPIME"*), as qualified by the Secretary of Economic Development;
- a temporary import regime (*"RIT"*), as qualified by the Secretary of Economic Development;
- agricultural export zones (*"ZADE"*) and
- thermal energy generation.

The tax incentives may generally include all or some of the following benefits:

- income tax, solidarity tax and net assets exemption for five, ten or 20 years depending on the type of incentive;
- exemption from or suspension of (as applicable) customs duties on the importation of machinery and capital goods related to the activity;
- exemption from or suspension of (as applicable) VAT (*Impuesto Sobre Ventas*) on the

importation of machinery and capital goods related to the activity;
- domestic VAT on machinery, capital goods and/or services related to the activity; and
- exemption from payment of taxes and municipal contributions.

2.4 Basic Rules on Loss Relief

As a rule, there is no relief for losses within the same fiscal year. However, taxpayers in the agriculture business, agribusiness, manufacturing, mining and tourism can apply to the Tax Administration for a carry forward of past losses of any fiscal year for up to three fiscal years. Loss relief is limited to a maximum of 50% of the net taxable income for the corresponding fiscal year.

In the case of taxpayers who carry out specific activities, any loss relief can only be compensated against profits in the same activity.

In terms of capital gains tax, if the set of operations yields a loss, this cannot under any circumstances be deducted from the gross income of the taxpayer.

2.5 Imposed Limits on Deduction of Interest

Interest is deductible if incurred to generate taxable income, without any limit.

2.6 Basic Rules on Consolidated Tax Grouping

Group consolidation is not permitted for tax purposes. Each entity is considered a separate taxpayer.

2.7 Capital Gains Taxation

Capital gains of residents are taxed at a rate of 10%. As a rule, the taxable gain is the difference between the book value or cost of acquisition (as applicable) and the sale price.

Capital gains of non-residents are initially subject to a 4% withholding tax on the total value of the transaction. The taxpayer must proceed to a settlement before the Tax Administration thereafter and pay and/or claim any difference between the tax withheld and the 10% on the difference between the book value or cost of acquisition (as applicable) and the sale price.

Capital gains because of mergers, acquisitions or spin-offs among related entities are exempt.

2.8 Other Taxes Payable by an Incorporated Business

Transactions are subject to VAT depending on their nature. In general, goods, services and merchandise transacted on commercial markets are subject to VAT at a rate of 15%.

Real estate transactions are subject to a real estate transfer tax of 1.5% on the transaction price.

Banking transactions are subject to *“security tax”* at a rate of HNL2.00 per thousand or any additional fraction.

Securities transactions are generally exempt from VAT.

2.9 Incorporated Businesses and Notable Taxes

Solidarity Tax

This is an additional 5% charge on the taxpayer’s net income if the taxpayer’s net income is greater than approximately HNL1 million and is not otherwise exempt.

Net Assets Tax

This is a 1% charge on the taxpayer’s net assets as of December 31 of the previous fiscal year if the taxpayer is not otherwise exempt.

Interest Tax

Interest charged on securities, sight deposits, saving deposits and term deposits, accrued by individuals or corporations, is taxed at a rate of 10%. The tax will be retained, at the time of carrying out any of these operations, by banks or other financial intermediaries. Interest from savings accounts that have an annual average not exceeding HNL50,000 are not taxed.

Municipal Gross Income Tax

Each municipality charges a tax on gross income generated within its jurisdiction at a rate approved by each municipal government every year.

3. Division of Tax Base Between Corporations and Non-Corporate Businesses

3.1 Closely Held Local Businesses

Honduran law does not include a formal concept equivalent to closely held corporations.

3.2 Individual Rates and Corporate Rates

Honduras has a progressive income tax rate for resident or domiciled natural persons of 15%, 20% or 25% depending on the amount of the individual's taxable income. Sole traders pay taxes according to natural person's rates. From the progressive tax table for 2025 the amount of HNL217,493.16 is exempt from tax. The tax to be calculated must therefore be considered from that starting point. The rates applicable to individuals on a lower annual income are lower.

The deductible expenses available to individuals are less than those available to corporations.

Although not specifically related to this issue, fees charged by individual professionals are not subject to VAT. Professionals are not subject to solidarity tax or to net assets tax and they therefore generally prefer not to adopt a corporate structure.

3.3 Accumulating Earnings for Investment Purposes

There are no rules preventing closely held corporations from accumulating earnings for investment purposes. It is mandatory to create a 5% reserve every year, but when it surpasses one-fifth of the corporation's capital it can be capitalised. Thereafter, the obligation to make a 5% reserve on earnings continues.

3.4 Sales of Shares by Individuals in Closely Held Corporations

Dividends are taxed at a final 10% withholding tax rate, independently of the beneficiary's residence. Gains on the sale of shares are taxed at 10%. If the seller is a non-resident, the buyer must withhold 4% on the total value of the transaction, subject to a final settlement before the Tax Administration. The taxable gain is determined by the difference between the book value or acquisition value (as applicable) and the price at which the shares are sold.

3.5 Sales of Shares by Individuals in Publicly Traded Corporations

There are no differences between closely or publicly held corporations.

4. Key Features of Taxation of Inbound Investments

4.1 Withholding Taxes

Withholding taxes applicable to non-residents are as follows:

- dividends and profit distributions: 10%;

- interest: 10%; and
- royalties: 25%.

No reliefs are available.

4.2 Primary Tax Treaty Countries
Honduras has no tax treaties in force.

4.3 Use of Treaty Country Entities by Non-Treaty Country Residents
There are currently no tax treaties in force.

4.4 Transfer Pricing Issues
Transfer pricing rules in Honduras have been in force since 2014. There are no transfer pricing rules issues specifically affecting inbound investors. At a general level, the biggest issue concerns financial and commercial transactions between related entities.

On 19 March 2024, the Tax Administration Service (SAR) announced Agreement SAR-653-2023 regarding the Country-by-Country Report, effective from the 2025 fiscal year. This is a new obligation that entities must consider.

4.5 Related-Party Limited Risk Distribution Arrangements
Limited risk distribution arrangements have not yet surfaced as a focus of the Tax Administration. However, any related-party arrangement that does not comply with transfer pricing rules could be challenged by the tax authorities.

4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards
The main differences between local transfer pricing rules and OECD standards concern:

- the adoption of a criterion of *"related party"* based on the parties to the transaction being relatives within certain degrees;
- the additional alternative methodology for valuing commercial and financial transactions, to address complexities; and
- the fact that double taxation is commendable but incomplete, especially regarding transparency standards and tax intelligence exchange with foreign jurisdictions.

4.7 International Transfer Pricing Disputes
Since Honduras has not ratified any double tax treaties, no mutual agreement procedures have been used to resolve international transfer pricing disputes.

5. Key Features of Taxation of Non-Local Corporations

5.1 Compensating Adjustments When Transfer Pricing Claims Are Settled
Where the settlement calls for compensating adjustments, Tax Administration officials have reported that the taxpayer proceeds with the compensating adjustments.

5.2 Taxation Differences Between Local Branches and Local Subsidiaries of Non-Local Corporations
Local branches of non-local corporations and local subsidiaries of non-local corporations are not taxed differently.

5.3 Capital Gains of Non-Residents
Non-residents' sale of stock in local corporations is taxable under capital gains tax. The capital gains of non-residents are initially subject to a 4% withholding tax on the total value of the transaction. The taxpayer must proceed to

a settlement before the Tax Administration and pay and/or claim any difference between the tax withheld and the 10% on the difference between the book value or cost of acquisition (as applicable) and the sale price.

Honduras has not subscribed to any tax treaties.

5.4 Change of Control Provisions

The indirect sale of local corporations, including those involving upper holding companies, are taxable under capital gains tax. The economic reality principle establishes that if holding companies do not have any economic substance, the final sale will affect the local company and must be taxed under non-residents' capital gains tax.

5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

At a general level, there are no formulas for determining the income of foreign-owned local affiliates. The tax applied to land, maritime and air transportation services of local affiliates is calculated as 10% of the gross income at a 25% rate.

5.6 Deductions for Payments by Local Affiliates

Local affiliates are allowed a deduction for payments for management and administrative expenses by a non-local affiliate on condition that:

- the payment is duly supported;
- the expense is necessary to generate taxable income;
- where applicable, the withholding tax has been charged to the non-local affiliate; and
- the applicable international financial reporting standards allow for the expense to be recognised as such by the taxpayer.

5.7 Constraints on Related-Party Borrowing

Besides transfer pricing rules and 10% withholding tax, interest paid to a non-local affiliate is deductible, if incurred to generate taxable income.

Advance dividends are accounts receivable from partners or related companies that do not arise from a commercial transaction and have a term greater than 100 calendar days. Dividend tax rates should therefore be applicable to them.

6. Key Features of Taxation of Foreign Income of Local Corporations

6.1 Foreign Income of Local Corporations

The foreign income of local corporations is exempt from corporate tax. The Honduran system is based on domestic-sourced income.

6.2 Non-Deductible Local Expenses

If the company has incurred any costs or expenses to generate foreign income, these will not be deductible because by law any costs or expenses need to generate *"taxable"* income to be deductible.

6.3 Taxation on Dividends From Foreign Subsidiaries

Dividends from foreign subsidiaries of local corporations are not taxed.

6.4 Use of Intangibles by Non-Local Subsidiaries

Under transfer pricing regulations, intangibles developed by a local company (as its main source of business) cannot be used by non-resident related parties without incurring local corporate tax.

6.5 Taxation of Income of Non-Local Subsidiaries Under Controlled Foreign Corporation-Type Rules
Local corporations are not taxed on the income of their non-local subsidiaries or non-local branches under CFC-type rules. There are no CFC-type rules in Honduras.

6.6 Rules Related to the Substance of Non-Local Affiliates
There are no substance-related rules applicable to non-local affiliates.

6.7 Taxation on Gain on the Sale of Shares in Non-Local Affiliates
Provided the sale takes place in a jurisdiction other than Honduras, capital gains on the sale of shares in non-local affiliates will not be taxed.

7. Anti-Avoidance

7.1 Overarching Anti-Avoidance Provisions
Honduras has the Income Tax Anti-Avoidance Measure Act, whereby businesses with operational losses over two consecutive or alternating years avoid income tax payment.

In addition, the Honduran Criminal Code specifies tax evasion is a criminal offence.

Honduras also has legislation related to tax assessments to characterise the taxable base.

8. Audit Cycles

8.1 Regular Routine Audit Cycle
Honduras does not have a regular routine audit cycle. However, it is specified in Honduran legislation that the Tax Authority may audit when necessary.

9. BEPS

9.1 Recommended Changes
Honduras joined the Inclusive Framework on BEPS on 11 December 2019. The Transfer Pricing Act and its regulations include a provision that may be considered to have been influenced by BEPS Actions 8 to 10. In addition, a Tax Justice Bill is being discussed at the Honduran National Congress that will incorporate BEPS Actions 3 and 5.

Country-by-country reporting has been required since the 2025 fiscal period.

9.2 Government Attitudes
The Tax Administration usually tries to implement BEPS Actions in Honduras, even though many of these require legislative and/or executive action. Although no official policy is being followed to adopt and implement BEPS, if the Tax Justice Bill is approved, some BEPS Actions will be implemented.

9.3 Profile of International Tax
The Honduran domestic-sourced income system does not presently reflect many of the BEPS Actions. However, if the Tax Justice Bill is approved, some BEPS Actions will be implemented.

9.4 Competitive Tax Policy Objective

The government is seeking to create a competitive tax policy with the Tax Justice Bill. However, the private sector does not share this conclusion and continues to lobby in favour of a competitive tax policy, as they see it.

9.5 Features of the Competitive Tax System

Although not intended to be a feature of *"competitive"* tax system, the Honduran corporate tax law is relatively simple and it is domestic source-based.

9.6 Proposals for Dealing With Hybrid Instruments

Although Honduras recently joined the Inclusive Framework on BEPS, it has not yet implemented the BEPS Action for hybrid instruments.

9.7 Territorial Tax Regime

Honduras has a territorial tax regime. Interest is deductible regardless of whether the beneficiary is a resident or not. The only condition is that the interest must be connected to the generation of taxable income. It is not likely that the interest deductibility proposals will affect people investing in or from Honduras.

9.8 Controlled Foreign Corporation Proposals

Honduras follows a strict territorial tax system and foreign-sourced income is not relevant to the local authorities. No CFC provisions have yet been implemented in the country therefore. This might change if the Tax Justice Bill is approved.

9.9 Anti-Avoidance Rules

Honduran tax law does not grant any DTC to outbound investors. However, if other jurisdictions create limitations on any DTC allowed to inbound investors, this is likely to have some impact on direct foreign investments into Honduras.

9.10 Transfer Pricing Changes

Transfer pricing rules have been in force since 2014 and have led to greater control between related companies by the Tax Administration. Nevertheless, the taxation of profits from intellectual property is not a particular source of controversy in Honduras.

9.11 Transparency and Country-by-Country Reporting

A major tax bill is presently being discussed, which incorporates transparency measures. Honduras has recently included a country-by-country report requirement from the 2025 fiscal period.

9.12 Taxation of Digital Economy Businesses

The Honduran Tax Authority seeks to regulate digital economy businesses. However, no formal proposal has been approved as of yet. However, if the Tax Justice Bill is passed it is expected that some of its regulations will apply to digital economy businesses.

9.13 Digital Taxation

Honduras has not presented any proposals regarding digital taxation. However, the government has on several occasions expressed the importance of incorporating e-commerce into the tax system.

9.14 Taxation of Offshore IP

Payments to non-residents for intellectual property deployed in Honduras are taxed by 25% withholding tax. No distinction is made between tax havens and other countries.