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FEATURED Q&A

Is Peru's New Tax Evasion Law Too Hard on Business?



Peruvian President Martín Vizcarra has touted the country's new law on tax evasion, saying it will generate \$1.8 billion in tax revenues. // File Photo: Peruvian Government.

Q Peru's government passed a law this month aimed at closing loopholes that allow companies to avoid paying some taxes. President Martín Vizcarra said the new measure should generate additional revenue for state coffers equal to nearly 1 percent of gross domestic product per year, or about \$1.8 billion. What does the new law involve? Will it generate the amount of money that officials expect, and how will the additional revenue be used? How has the business community responded to the changes?

A Anthony Laub, partner at Laub & Quijandría in Lima: "This new law increases the powers and capabilities of SUNAT, the tax authority, to consider actions taken by taxpayers as improper and will allow the authority to consider those actions as subject to taxes, even if they are not specifically forbidden. SUNAT's margin for discretion is very ample, and this measure allows the authority to question almost any act that it considers suspicious. This legislation has extended the responsibility of any act considered as elusive from a company's management up to its board members. This will generate tension in the business community and legal conflicts with the tax authority. The apparent motivation is that the country will be able to gain additional tax revenues. But the truth is that the fiscal deficit is generated by the creation of bureaucracy, unproductive social programs and unplanned political commitments, as well as current expenditures. If this tendency of failing to control public expenditures continues, this law will also fail to achieve its objective, as it will keep punishing the same taxpayers who

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Former Argentine President Cristina Fernández de Kirchner goes on trial today on multiple corruption charges. She denies wrongdoing. Fernández is a current senator.

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Brazilian state-owned bank Caixa Econômica Federal is seeking three partners for its pre-paid cards and loyalty program units.

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POLITICAL

Maduro Proposes Early Vote for Venezuela's National Assembly

Venezuelan President Nicolás Maduro called for moving up the elections for the country's opposition-controlled National Assembly. The balloting is currently scheduled for late next year.

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Maduro // File Photo: Venezuelan Government.

POLITICAL NEWS

Venezuela's Maduro Proposes Early Vote for National Assembly

Venezuelan President Nicolás Maduro on Monday proposed early elections for the country's opposition-controlled National Assembly, the only Venezuelan body that most Western nations consider legitimate, CNN reported. The legislature is headed by opposition leader Juan Guaidó, whom more than 50 nations, including the United States, recognize as the country's acting president. "We will legitimize the only

“We will legitimize the only institution that has not been legitimate over the past five years.”

— Nicolás Maduro

institution that has not been legitimate over the past five years," Maduro told supporters during an event marking the one-year anniversary of his disputed re-election as president. "We are going ahead with early elections for the National Assembly to see who has the people, who has the votes and who will win." Maduro's statement followed Guaidó's call on April 30 for a military uprising to overthrow Maduro's government. The action, however, failed to unseat Maduro from power. The opposition took control of the National Assembly in 2015, but Maduro and his allies later stacked the Supreme Court with his supporters, and the court proceeded to negate the elected legislature's actions. Maduro's government then created a powerful new legislature, the Constituent Assembly, and filled it with his supporters, to act as the country's supreme body. Venezuela's next scheduled National Assembly elections are scheduled for late next year, Reuters reported. Maduro did not give a date for when the election balloting would be held, and he has previously said he would move them up, without acting on it. In January, Guaidó invoked

Venezuela's Constitution to declare himself interim president and has denounced Maduro as a usurper whose policies have plunged the country into an economic crisis. The South American nation is facing severe shortages of food, medicines and other basic goods and is also beset with hyperinflation. Maduro has accused Guaidó of being a coup plotter and puppet of the United States and has said he will face justice. Maduro still has the support of the country's military leadership, as well as foreign allies including China, Russia and Cuba. Since Guaidó's April 30 call for a military uprising, Venezuelan intelligence agents have detained several of Guaidó's allies, and the Supreme Court has lodged accusations, including treason and conspiracy, against 14 opposition lawmakers, leading most of them to flee the country or seek refuge in foreign embassies in Caracas, Reuters reported. Guaidó's ambassador to the United States, Carlos Vecchio, said Monday that he had met with officials at the Pentagon and the State Department to discuss "all aspects of the Venezuelan crisis." Vecchio offered few details about the meetings other than saying they were "very positive" and adding, "We continue to advance." U.S. President Donald Trump has not ruled out military involvement in Venezuela, saying "all options are on the table." [Editor's note: See [Q&A](#) on Venezuela in the May 10 issue of the Advisor.]

Former Argentine President Fernández Faces Trial Today

Former Argentine President Cristina Fernández de Kirchner goes on trial today on multiple corruption charges, La Nación reported. The trial is getting underway just days after Fernández, a current senator, announced she will run for vice president in the country's October election alongside Alberto Fernández as the presidential candidate. Cristina Fernández stands accused of a number of crimes during her two terms of president, from 2007 to 2015, including money laundering and accepting bribes in exchange for public works contracts, Reuters reported. Cristina Fernández has strongly

NEWS BRIEFS

Nicaragua Releases 100 Prisoners to House Arrest

Nicaragua's government has released 100 prisoners, including at least three human rights activists, to house arrest, the Associated Press reported Monday. All of the prisoners face charges of "offenses against security and the public peace," the accusations that have frequently been leveled against protesters in violent anti-government demonstrations that began last year.

Colombia's Army Denies Stepping up Attacks Against Rebels, Gangs

Colombia's army on Monday denied it has pressured high-ranking officers to kill or capture more rebels and gang members in military operations, following a report by The New York Times citing military sources saying authorities had demanded a doubling in the number of dead, captured or surrendered criminals, El Tiempo reported. Army Chief General Nicacio Martínez said such a measure had never been ordered, adding that the policy applied in all military operations is one aligned with "the preservation of human rights."

América Móvil Looking to Refinance \$2.5 Billion in Revolving Credit Facilities

Mexican telecommunications provider América Móvil is looking for lenders to refinance at least \$2.5 billion in revolving credit facilities maturing in August, Reuters reported Monday, citing three unnamed banking sources. The company has not tapped the dollar- or euro-denominated syndicated loan market in three years. América Móvil registered a net profit of 19.44 billion pesos (\$1 billion) in the first quarter of this year, a 3.6 percent jump from the same period a year earlier, as lower costs offset falling revenue, Milenio reported.

denied the accusations. The trial is “a new act of persecution with just one objective: place an opposition former president in the same dock as those accused amid the presidential campaign,” she said on Twitter early this morning. The charges against the former president could result in a sentence of up to 10 years in jail, if she is found guilty of leading a corruption ring that laundered millions of dollars in public money, Reuters reported. However, given her status as a senator, she currently enjoys immunity from arrest. [Editor’s note: See related [Q&A](#) in the March 25 issue of the Advisor.]

BUSINESS NEWS

Brazil’s Caixa Seeks Partners for Cards, Loyalty Programs

Brazilian state-owned lender Caixa Econômica Federal is looking for three partners for its pre-paid cards and loyalty program units, Reuters reported Monday, citing two sources with knowledge of the matter. The bank had initially considered a partner just for its card business in a deal expected to attract some of Brazil’s largest card acquirers, including Cielo, Redecard, GetNet and PagSeguro, according to the report. The partnerships would be settled before the Caixa card business’ initial public offering, one of the sources said. Such partnerships are likely to increase the company’s value before its IPO. The bank is to hire investment banks as advisors to forge these partnerships and for the card unit, which is to be named Caixa Payments, in the coming days, a source added. CEO Pedro Guimarães plans to list four of Caixa’s units—insurance, cards, lottery and asset management—as part of a larger strategy to raise as much as 100 billion reais (roughly \$24 billion) by selling assets that the state-owned bank owns or manages, Reuters reported. “Caixa will not stay in a segment that is not profitable for Brazilians,” Guimarães said in announcing the launch of the IPO process in March, also calling the public offering “historical,” Folha de S.Paulo reported.

THE DIALOGUE CONTINUES

How Can the Region Boost Productivity?

Q **Low productivity has been the primary culprit for Latin America’s limited capacity to transform productive resources into high-quality goods and services, according to a report released last month by CAF-Development Bank of Latin America. What are the reasons behind Latin America’s persistently low productivity rates, and what consequences do they have on the region’s overall growth? What measures should policymakers and businesses implement to reverse this trend? To what extent do non-economic factors such as weak rule of law and bureaucracy play a role in the region’s stagnant productivity measures, and what can be done to improve countries’ business environments in relation to these areas?**

A **Tobias Franz, postdoctoral researcher at Cider at the Universidad de los Andes in Bogotá:** “The region’s productivity problems date back to the 1980s. After several external shocks, leaders in most countries gave up on policy efforts to achieve industrialization levels beyond import substitution. Neoliberal reforms, particularly the liberalization of capital and current accounts integrating Latin America into the lower end of global value chains, had detrimental effects on productivity. It has been and will be difficult for the region to break through the cycle of low productivity growth because neoliberalization and transnationalization have fit perfectly with the underlying power structure in most of the region. The concentration of power and dominance of elite interests in sectors marked by low productivity has resulted in the buying of political protection, hurting governments’ overall capacity to exercise power and efficiently allocate resources. Governments’ low capacity to enforce policies that would support medium- and high-technology firms and little ability to withdraw support

from unproductive firms have crippled any meaningful attempts to improve productivity. A few powerful companies’ control of productive sectors has also slowed attempts to increase internal competition and knowledge-sharing, which leads to disappointing productivity outcomes. There are some policy measures Latin America could implement for firms to invest in medium- and

“The region’s productivity problems date back to the 1980s.”

— Tobias Franz

high-technology activities. First, economic policy should focus on identifying technological bottlenecks and establishing conditions for foreign technology transfers that will create spillovers and linkages, which boost firms’ technology capability. Second, policymakers need to design policies that create incentives and obligations for firms to invest in medium- and high-productivity activities. This implies provision of financial and technical support to producers and improvement of workers’ skills. Third, implemented mechanisms must place credible conditions on firms that receive support to adapt to new technologies and compete higher up in the value chain. And fourth, joint efforts of firms and governments to increase real wages will end continued dependence on cheap labor as a source of global competitiveness. This will help overcome Latin America’s minimal technological inventories and static comparative advantages in sectors marked by low productivity and unskilled labor.”

EDITOR’S NOTE: The comment above is a continuation of the [Q&A](#) published in the May 16 issue of the Advisor.

FEATURED Q&A / Continued from page 1

contribute the bulk of the tax revenues. There is a limit to how much a country can take from the same taxpayers. Instead of chasing those who do not pay taxes at all, the law seeks to increase the tax burden on those who are already contributing. We have some tax evasion in Peru, but we strongly believe the government's numbers are exaggerated and are not addressing the real problem: the need for more sensible public spending, reducing bureaucracy and dramatically reducing the high levels of informality in Peru's economy."

A **Luis Eduardo Falen, head of macroeconomics at Inteligo – Intercorp Group in Lima:** "This law constitutes an important advance in the long road of adaptation to the OECD's recommendations. It also contains some controversial points that generate uncertainty among taxpayers. Among the main points, we highlight its application beginning in 2012, the responsibility of the board of directors for approving tax planning and the responsibility of legal representatives. First, this law goes against the principle of non-retroactivity, as it will regulate cases dating back to 2012. However, the Ministry of Finance has signaled that it is not trying to persecute anyone. The ministry points out that, if in the tax planning there is a decision that was made before but its effects are still tangible now or in the coming years, then it must be corrected. Second, the law generates uncertainty as it states that the responsibility for fiscal planning belongs to the members of a company's board of directors. However, it ignores that a board is made up of diverse professionals. Finally, the fact that the legal representative would also be held responsible for elusive planning would not respect the presumption of inno-

cence. The government expects this new law to generate additional revenue of around \$2 billion per year, in a context in which tax evasion would have generated losses of some \$5 billion, according to Ministry of Finance estimates. In this sense, we think that this law will have a dissuasive effect, because companies will be more cautious and conservative in the design of their tax planning."

A **Carlos Vargas Alencastre, CEO of Vargas Alencastre, García & Asociados:** "Tax evasion involves illegal mining, fraud, real estate and wholesale trading as well as lodging. This is not just a main weak spot for Latin America but also an international problem. In that context, creative tax schemes for deferring or reducing income tax or value-added tax affects the tax collection of any country and therefore means fewer government welfare programs. Tax evasion has been intensified by the increase of cross-border transactions in which the transfer of huge capital flows from one tax law jurisdiction to another has been a common practice by multinational enterprises. The main purpose of these practices has been to take advantage of tax loopholes in order to obtain greater tax and legal benefits. In conclusion, some Latin American countries, such as Argentina, Chile, Colombia, Costa Rica, Mexico, Peru and Uruguay, have been modifying their internal tax laws in accordance with reports on international standards and OECD documents for reducing or abolishing tax evasion."

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