Compiled by members of:

LEA global

Legis Tributum Análisis

Bulletin No. 3 - Tax Treatment of Interest Payments to non-resident taxpayers in reporting Country

Publication Number 3
2025

INTRODUCTION

In today's globalized environment, companies require financing to execute expansion plans, launch new projects, or support working capital needs.

Currently, financing placement has become a key component of international operations—not only through established financial institutions but also among private entities. These arrangements aim to "support the financial needs of related parties," generating economic benefits commonly referred to as interest for the lending party.

This bulletin presents a study of tax legislation across various Latin American countries regarding the fiscal treatment of interest payments. Its objective is to give readers a general overview of the tax cost associated with interest-bearing loans.

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Introduction to the Topic

In Brazil, under the Brazilian Civil Code (Act No. 10.406/2002, Article 591), loans granted for economic purposes are presumed to bear interest.

If no interest rate is contractually agreed upon, the "SELIC" (Special System for Settlement and Custody) interest rate is commonly applied by default.

General concept of interest

Interest on a financial loan arises from the mutual agreement of the parties and serves as compensation to the lender for the capital provided to the borrower.

When is interest considered a source of income?	When a lender receives a payment that includes an adjustment over the initial principal amount, this additional sum represents financial gain. At this point, the interest income is considered taxable revenue.
What is the general tax rate and are there any benefits?	Interest payments sent abroad are subject to a 15% of IRRF (Withholding Income Tax at Source), as established in Article 760 of Brazilian Decree No. 9.580/2018. However, if the parties agree that the borrower shall bear the IRRF cost, the effective tax burden increases to 17,65%, ensuring the lender receives the full amount before taxation.
How and when should the tax be paid?	IRRF (Withholding Income Tax at Source) shall be withheld at the time of the interest payment to the lender based abroad. This is handled by the financial institution responsible for executing the foreign exchange contract for the remittance, occurring on the same day the funds are transferred (D-0).

Are there any tax obligations for the lender?

A non-resident borrower is not required to submit any ancillary tax obligations in Brazil. However, the lender shall present the loan agreement between the parties, which shall be registered before BACEN (Brazilian Central Bank).

Are there International Treaties offering a reduced tax rate?

Brazil has Double Taxation Avoidance Agreements (DTA) with the following countries, which may provide reduced tax rates on interest payments:

· Argentina	· India	· Slovakia
· Austria	· Israel	· South Africa
· Belgium	· Italy	· South Korea
· Canada	· Japan	· Spain
· Chile	· Luxembourg	· Sweden
· China	· Mexico	· Switzerland
· Czech Republic	· Netherlands	· Trinidad and Tobago
· Denmark	· Norway	· Turkey
· Ecuador	· Peru	· Ukraine
· Finland	· Philippines	· United Arab Emirates
· France	· Portugal	· Uruguay
· Hungary	· Russia	· Venezuela
	· Singapore	

Some tax treaties do not explicitly set limits on interest rates or provide for reductions in the 15% IRRF (Withholding Income Tax at Source) applied in Brazil. However, as a general rule, if IRRF is withheld in Brazil, a borrower residing in a treaty-signatory country may be eligible to offset the withheld tax in accordance with their local tax regulations.

Is there a limit on interest deductibility for financing with a non-resident related-party lender?

Yes. In Brazil, loan agreements between related parties are subject to Transfer Pricing rules, as established by Act No. 14.596/2023. As of the 2024 fiscal year, Brazil has adopted OECD-aligned Transfer Pricing regulations, following the guidelines of the Organization for Economic Co-operation and Development (OECD).

In the case of a controlled transaction classified as a debt operation, the following rules apply to the related-party lender:

a) If the lender lacks financial capacity or does not control the economically significant risks associated with the transaction, the lender's remuneration cannot exceed the amount determined based on a risk-free return rate or;
b) If the lender has financial capacity and does have control over the economically significant risks associated with the transaction, the lender's remuneration cannot exceed the amount determined based on a risk-adjusted return rate; or
c) If the lender acts solely as an intermediary, with the debt financing originating from another party, the lender's remuneration shall be determined under the Arm's Length Principle, considering the functions performed, assets used, and risks assumed in the transaction.

In addition to Transfer Pricing rules, interest on loans between related parties shall also comply with thin capitalization regulations. In Brazil, for interest to be tax-deductible, the loan shall be used to support the operational activities of the Brazilian entity. The interest shall be considered a necessary business expense, and the debt shall not exceed the following limits:

a) In the case of indebtedness with a foreign related-party entity that holds an equity interest in the Brazilian entity, the amount of the debt with the related-party lender, as determined at the time the interest is accrued, shall not exceed twice the value of the related party's equity interest in the net worth of the Brazilian entity;

b) In the case of indebtedness with a foreign related-party entity that does not hold an equity interest in the Brazilian entity, the amount of the debt with the related-party lender, as determined at the time the interest is accrued, shall not exceed twice the value of the net worth of the Brazilian entity;

c) In either of the aforementioned cases, the total amount of indebtedness with foreign related-party entities, as determined at the time the interest is accrued, shall not exceed twice the aggregate value of the equity interests held by all related parties in the net worth of the Brazilian entity.

Final remark:

Interest payments made to foreign lenders are also subject to a 0,38% IOF (Tax on Financial Transactions), which is levied on the remitted amount.

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Introduction to the Topic

Interest paid to non-residents is subject to a 35% withholding tax rate. However, a 4% rate applies, among others, to interest from loans granted by foreign or international banks or financial institutions, or by insurance companies or pension funds that meet certain registration requirements, provided the lender and the borrower are not related parties. The withholding rate may be reduced in accordance with the terms of an applicable tax treaty.

General Concept of Interest

The Income Tax Law does not define what should be understood as "interest" for tax purposes; however, in general terms, Article 2 of the Tax Code, for matters not covered in said Code and other tax laws, applies the rules of common law derived from general or special laws. In this sense, Article 647 of the Civil Code establishes that civil fruits include, among others, interest on capital payable or non-refundable taxes. Article 2 of Law 18.010 establishes that, in non-adjustable monetary credit operations, any sum that the creditor receives or is entitled to receive, under any title, in excess of the capital is considered interest, while, in adjustable operations, any sum that the creditor receives or is entitled to receive in excess of the adjusted capital is considered interest.

When is the Payment of Interest Considered a Source of Wealth?	The term "interest" means the returns on credits of any nature, with or without mortgage guarantees, and especially the returns on public securities and bonds or debentures, as well as any returns that are assimilated to the returns on amounts given in loan. However, the term "interest" does not include income from dividends.
¿What is the General Tax Rate and Are There Any Benefits?	Interest paid to non-residents is subject to a general withholding tax rate of 35%. Interest on loans granted by foreign banks or financial institutions is subject to a 4% withholding tax.
How and When Should the Tax Be Paid?	It must be withheld by those who pay, remit, credit to an account, or make available to taxpayers without a domicile or residence in Chile, any interest. The declaration and payment of the withholding tax is paid the following month within the first twelve days of each month.
Does the Creditor Have Any Tax Obligations to Fulfill?	No, since the responsibility for complying with the Law lies with the payer, who has the obligation to withhold the tax.

Are There International Treaties That Offer a Reduced Rate?	Yes, a reduced rate exists for those countries with which Chile has a double taxation treaty. Chile is one of the countries with the most treaties.
Are There Limits on the Deduction of Interest for Financing with a Non-Resident Creditor Who Is an Associated Party?	Yes, there are limits on the deduction of interest in financing with non-resident creditors who are associated parties. In general, interest paid to non-resident creditors who are associated parties may be subject to a deduction limit to avoid thin capitalization or profit shifting. The thin capitalization rules between related companies with a debt-to-equity ratio of 3:1 apply, and a single 35% penalty tax is applied on interest, commissions, services, or any other financial disbursement associated with loans subject to the Additional Income Tax at a rate lower than 35%, or that have not been taxed under the local tax framework.

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Introduction to the Topic

The Costa Rican tax system is based on the principle of territoriality, which, according to Article 1 of the Income Tax Law, considers all wealth derived from services rendered, assets located, capital invested, and rights used within the territory of the republic as Costa Rican-source income. This means that returns generated by capital used within the national territory are considered Costa Rican-source income and are subject to this tax.

However, an extension to the territoriality rule applies to passive income generated outside the national territory by non-qualified entities. These entities are those without economic substance, which is why such passive income, even if not generated within Costa Rica, must be integrated into Costa Rican-source income.

Another characteristic of our Income Tax system is that different types of wealth obtained are taxed differently, meaning different taxpayers, different tax rates, and different determination elements.

General Concept of Interest

Interest or financial returns correspond to the benefits obtained in exchange for lending money, providing a service, or carrying out a profitable activity.

When is an Interest Payment Considered a Source of Wealth?	When the capital is used within the territory of the republic, generating income through a continuous or occasional commercial activity.

What is the General Tax Rate, and Are There Any Benefits?

According to Article 59 of the Income Tax Law, interest, commissions, and other financial expenses paid or credited by individuals or legal entities domiciled in Costa Rica to foreign banks that are part of a Costa Rican financial group or conglomerate regulated by the National Financial System Supervision Council (CONASSIF) are subject to a 15% tax rate on the amount paid or credited. However, the following exceptions apply:

- A reduced rate of 5.5% applies to interest, commissions, and other financial expenses paid or credited by entities subject to the supervision and inspection of the General Superintendence of Financial Institutions (SUGEF) to foreign entities that are also subject to supervision and inspection in their respective jurisdictions.
- Exemptions apply to interest, commissions, and other financial expenses derived from loans granted by multilateral development banks and multilateral or bilateral development organizations, as well as non-profit organizations that are tax-exempt or not subject to taxation under current legislation.

How and When Should the Tax Be Paid?

This tax must be self-assessed and paid within the first fifteen calendar days of the month following the taxable event.

Are There Any Tax Obligations for the Creditor?	No, the creditor does not have tax obligations. However, the debtor does. Costa Rican tax regulations establish that every year, the withholding agent (individual or legal entity) subject to Income Tax must report, through Form D152 - Annual Summary of Withholdings, the name, identification number, taxable amount, and withheld tax for foreign entities subject to withholding for outbound remittances. Failure to comply with this requirement results in penalties ranging from approximately $2,700 to $92,000.
¿Are There International Treaties Offering a Reduced Rate?	Yes, Costa Rica has currently signed and ratified four treaties to avoid double taxation with the following countries: Germany, Spain, Mexico, and the United Arab Emirates.
Are There Limits on Interest Deduction for Financing with a Non-Domiciled Related Party?	Yes, Article 9 bis of the Income Tax Law establishes a limitation on the deduction of non-banking interest, with a maximum deductibility of 20% of EBITDA.

Final Comment

In addition to the explicit limitation established in the Income Tax Law on interest expenses, it is important to note that the following expenses are non-deductible from gross income:

1. Expenses contracted with a non-cooperative jurisdiction, meaning a jurisdiction where the Income Tax rate is 40% lower than the Costa Rican rate or one that does not have a signed and ratified agreement with Costa Rica for tax information exchange or to avoid double taxation.
2. Expenses associated with hybrid mismatches incurred by the taxpayer with related parties abroad, when such expenses do not generate taxable income or generate exempt income for the related party, or when these expenses are also deductible for the related party domiciled abroad.

Additionally, it is important to note that an economic linkage is presumed between the Costa Rican taxpayer and the non-cooperative jurisdiction, which means that transactions involving these entities must be covered under a Transfer Pricing Study.

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Introduction to the topic

In El Salvador's tax legislation, interest income is subject to tax. There are some exceptions to this tax treatment, but in general, interest payments to non-residents are subject to income tax.

General concept of interest

The legislation does not establish a definition of interest; it only refers to the concept as income, and also distinguishes between interest paid as expenses and interest or profits obtained as income.

When is interest payment considered a source of wealth?	In the case of interest payments, local legislation defines it as income paid when interest is paid or when it is credited. Therefore, it can be considered a source of wealth at the moment of payment or crediting.
What is the general tax rate and is there any benefit?	For interest payments to non-residents, the tax rate is 20% on the amount paid. There is a reduced rate of 10%, but this applies to interest payments made to foreign entities that are supervised by the financial regulations of their country of origin and are additionally pre-qualified by the Central Reserve Bank of El Salvador. *Art. 158 Código Tributario*

How and when should the tax be paid?	a. **How?** Through monthly tax returns b. **When?** In the month in which the interest payment to non-residents was made, according to the dates established for monthly returns in the local tax calendar.
Are there any tax obligations the creditor must comply with?	In terms of tax, the only deduction from the payment is the 20% withholding tax for the final income tax payment.
¿ Are there international treaties that offer a reduced rate?	Only with the of Spain is there a treaty to avoid double taxation, with a reduced rate of 10%
Are there limits on the deduction of interest from financing with a non-resident creditor who is a related party?	There are no limits on the deduction of expenses. However, in the case of related parties, the 20% rate is applied directly. The withholding rate does not allow for a reduced rate.

Final comment

It is very costly for local companies to obtain financing from abroad and pay interest to non-residents, as in some cases they have to absorb the cost of the non-resident withholding tax plus the cost of the interest. Therefore, most companies opt for local financing, from either related parties or banks.

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Introduction to the Topic

The purpose of this guide is to provide potential investors with a general overview of the current tax treatment in Ecuador, applicable to the payment of interest to a non-tax resident in Ecuador, as well as to provide basic guidance and guidelines regarding the characteristics of the main taxes that are mandatory in Ecuador.

General concept of interest

In Ecuador, the concept of interest, in the financial field, refers to the amount paid for the use of borrowed money or the return obtained from investing or depositing capital. The interest rate is expressed as a percentage and is calculated on the principal amount over a given period of time.

When is interest payment considered a source of wealth?	Income derived from assets located in Ecuador or from activities carried out in Ecuador will be considered a source of wealth or income, regardless of the taxpayer's domicile, residence, or nationality
What is the general tax rate and is there any benefit?	The corporate tax rate in Ecuador is 25%. In certain special cases contemplated in the Internal Tax Regime Law, this tax rate may increase or decrease by two percentage points, and in other cases, there may be increases of up to 150% of expenses to determine the taxable base, provided that special conditions established in the Ecuadorian Tax Regulations are met

How and when should the tax be paid?	Individuals must generally file their annual income tax return between March and April. Companies must file their annual income tax return in March.
Are there any tax obligations that the creditor must comply with?	In Ecuador, creditors may have certain tax obligations depending on the nature of the transaction, such as making "Withholdings at Source," filing monthly withholding declarations, as well as the respective Value Added Tax (VAT) or Special Consumption Tax (ICE). Creditors are required to issue receipts for each of these transactions. Failure to do so is grounds for penalties. Additionally, the creditor is required to withhold the Foreign Exchange Outflow Tax (ISD) when payments are made abroad, for which there is a segment of legislation with specific regulations.

Are there international treaties that offer a reduced rate?	Ecuador has "International Double Taxation Treaties" with several countries around the world, which optimizes tax costs.
Are there limits on the deduction of interest from financing with a non-domiciled creditor who is a related party?	In Ecuador, interest granted by related companies will be deductible, as long as it does not exceed 20% of profit before labor participation.

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Introduction to the topic

The granting of loans or credits, generally, by means of the execution of the respective contract by nonresident entities that are not part of the financial system, mainly to legal entities or companies resident in Mexico, whether related or independent parties, in exchange for the payment of “interest” at the market rate, is an ordinary transaction from the legal and economic standpoint in Mexico.

Therefore, the payment of "interest" made by legal entities and individual residents in Mexico to nonresident entities that do not form part of the financial system is subject to Mexican income tax at source, in accordance with the provisions of the Income Tax Law in effect.

General Concept of Interest

From a legal and economic perspective, interest represents the cost of money that the person receiving a loan or credit, as the debtor, must pay to the person granting the loan or credit that has the right to receive the payment of such interest, as creditor, which may can come from a nonresident entity or from Mexico.

Regarding income from interest earned by foreign residents, for income tax purposes; interests are considered income from debt-claims of every kind, as well as any other type of income that the Mexican tax legislation treats as income from money lent.

When is interest payment considered as source of wealth?	In the case of interest income, the wealth source is considered in Mexican territory when the capital is placed or invested in the country, or when the interest is paid by a Mexican resident or a nonresident with a permanent establishment in the country.

What is the general tax rate and if, in such case, are there any benefits?

In the specific case of interest income earned by foreign entities that do not form part of the financial system, there is not a general tax rate; instead, there are several withholding tax rates which are applied according to the characteristics of the financial agreement and the recipient of the interest income, as appropriate.

Therefore, it is necessary to know and identify the recipient and the transaction that gave rise to the payment of interest in order to apply the respective withholding tax rate in each specific case.

Below, some examples in general terms, as follows:

10%, in the following cases:

- Entities that place or invest capital in Mexico derived from credit instruments that are issued by them and placed abroad among the investing general public.
- On interest paid from credit instruments placed through banks or stock brokerage firms in a country with which Mexico does not have a Double Tax Convention (Tax Treaty) in force.
- The acquisition of a credit right of any kind, whether present, future, or contingent.

4.9%, in the following cases:

- On interest paid to foreign residents from credit instruments placed among the investing general public through banks or stock brokerage firms in a country with which Mexico has a Tax Treaty in force.

15% on interest paid to re-insurers.
15% for interest agreed upon in financial lease contracts.

21% in the following cases:

- Interest paid to foreign suppliers for the sale of machinery and equipment forming part of the fixed assets of the purchaser.
- Interest paid to foreign residents in order to finance the acquisition of the aforementioned assets, and in general, for loans enabling inventory or commercialization, provided any of these circumstances is set forth in the respective contract.

35% tax rate on interest other than the above-mentioned in the preceding paragraphs (general rate).

- Regarding interest income obtained by foreign entities that do not form part of the financial system, there are tax benefits under the Tax Treaties entered into by Mexico with several countries, which consist of applying reduced withholding tax rates compared to those established in the domestic law, as appropriate.

How and when should the tax be paid?

The tax is paid by means of withholding which will be performed by the person making the interest payments to foreign residents, and it will be calculated by applying the different tax rates to the income earned by the foreign resident taxpayer, without any deductions ("gross income basis"), as appropriate.

When the income tax is calculated by means of withholding, the person making the respective withholding will pay the tax to the tax authority, that is, the Tax Administration Service ("SAT"), through its platform or Internet portal, by using the appropriate form, no later than the 17th day of the calendar month immediately following the month in which the interest payment was made.

Are there any tax obligations that the creditor must comply with?

Nonresident entities are not part of the financial system, as creditors, do not have any obligations in Mexico, as their tax obligations related to income derived from Mexican sources are duly fulfilled by Mexican resident entities by means of tax withholding.

On the other hand, taxpayers who may claim their tax residence in another country with which Mexico has a Tax Treaty, in effect, in order to apply its benefits, such taxpayers can do it by submitting a certificate of residence issued by the competent foreign authorities, or with the documentation issued by those authorities, evidencing that they have filed the income tax return for the last fiscal year.

Are there international treaties offering a reduced tax rate?

Mexico has more than fifty Tax Treaties, in effect, with several countries, under which reduced tax withholding rates have been established for interest income paid to nonresident entities that do not form part of the financial system, as per the respective country.

With regard to Tax Treaties entered into by Mexico with Latin American countries, the following are in effect:

- Argentina
- Brazil
- Chile
- Colombia
- Costa Rica
- Ecuador
- Panama
- Peru
- Uruguay

Additionally, there are Tax Treaties with other countries, as follows:

- United States of America
- Canada
- United Kingdom
- Spain
- France
- Germany
- Switzerland
- Italy
- Netherlands
- Japan
- China

¿Are there any limits on the deduction of interest for financing with nonresident creditors that are related parties?

There are limits on the deduction of interest paid to foreign creditors that are related parties of the debtor, according to the application of the "thin capitalization" or "insufficient capitalization" rules; in accordance with the specific calculation procedure established, for such purposes, in order to determine non-deductible interest, in cases where:

The interests arising from arising from the amount of debts contracted by the taxpayer with related foreign parties that exceed three times the taxpayer's net worth.

Additionally, interest paid to foreign resident creditors and Mexican resident creditors, whether related or independent parties, will not be deductible for income tax purposes when:

Net interests exceed 30% of the taxpayer's adjusted taxable profit for the fiscal year.

This limitation will only apply to companies whose interest accrued derived from their debts in the fiscal year exceed 20 million pesos.

In general terms:

The net interests for the fiscal year are calculated by subtracting from the total interest accrued derived from debts during the fiscal year, the total interest income accrued during the same period and the amount of 20 million Pesos; the above will not apply when the accrued interest income is equal to or greater than the amount of accrued interest derived from debts.

The adjusted taxable profit (“fiscal EBITDA”) is the amount resulting from adding to the taxable profit for the fiscal year ("taxable income"), the total interest accrued derived from debts during the fiscal year, as well as the total amount deducted for fixed assets, deferred expenses, deferred charges, and pre-operating period expenditures, in the fiscal year.

The amount of non-deductible net interests of the fiscal year may be deducted over the next ten fiscal years until depleted.

On the other hand, regarding interests paid to foreign residents, the taxpayer is required to make two calculations: one for the determination of net interests for the fiscal year and another for the application of thin capitalization or insufficient capitalization rules; thus, if the amount of non-deductible interest calculated for net interests is greater than the non-deductible interest resulting from thin capitalization, the latter calculation will not be applicable.

Final comment

It is necessary to identify the person or the entity, as recipient of the interest income, as the “beneficial owner”, that does not form part of the international financial system, in order to verify and determine their tax residence in a country with which Mexico has a “Tax Treaty”, in effect.

In this context, the benefits of the Tax Treaties consisting of various reduced tax withholding rates on interest income obtained, will only be applicable to creditors who can prove their tax residence in the respective treaty country; in which case, the withholding rates established in the Income Tax Law would not apply.

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Introduction to the Topic

The tax treatment of interest payments to a non-tax resident in Panama is a relevant topic for companies obtaining financing abroad. The determination of the source of income, the application of withholding, and the possibility of deducting such interest are key aspects to consider in the tax management of these operations.

General Concept of Interest

Interest is the agreed compensation for the use of another party's capital. In tax terms, it is considered passive income for the creditor and a financial expense for the debtor. This payment may be calculated on a fixed, variable, or mixed basis, usually expressed as a percentage of the loan principal.

When Is Interest Considered Panamanian-Source Income?

In Panama, interest paid to a non-resident is considered Panamanian-source income when the financing is used to generate taxable income in Panama. This requires withholding payments made abroad. The structuring of such transactions must also take into account not only local withholding obligations but also international tax transparency rules on documentation and economic substance, particularly for related parties transactions.

What is the General Tax Rate and are there Possible Benefits?	The general withholding tax rate on interest paid to a non-resident is 25% on 50% of the gross interest, resulting in an effective tax burden of 12.5%. However, if a double taxation treaty (DTT) applies, the rate may be reduced. To calculate the withholding amount, all sums paid, credited, or transferred to the taxpayer during the year must be aggregated, and the 25% corporate income tax rate is applied to 50% of the total.
How and When Should the Tax Be Paid?	The Panamanian paying entity must withhold the tax and report it to the General Directorate of Revenue (DGI) within the first ten days of the month following payment
Are There Tax Obligations for the Creditor?	The non-resident creditor does not have direct tax obligations in Panama concerning these interest payments, as the responsibility lies with the local payer through the withholding mechanism.

Are There International Treaties That Provide Reduced Rates?

Panama has signed several DTTs with countries such as Mexico, Spain, and France, among others, which may provide reduced withholding rates depending on the treaty's provisions. It is advisable to review the applicable treaty to assess potential benefits.

Additionally, entities exempted under special laws from withholding tax on outbound payments (interest, dividends, royalties, fees, etc.) must keep on file a formal opinion from an independent expert, meeting specific requirements to prove that withholding is not applicable or partially applicable.

Such requirements include:
1. Citing the legal basis that prevents the beneficiary from offsetting Panamanian taxs credit, or only partially allows it.
2. Explaining the factual reasons that prevent or limit the beneficiary from claiming the credit.
3. Providing a declaration that the issuing expert has no economic dependence, legal subordination, or family ties with the payment recipient.
4. Demonstrating the expert's qualifications in tax matters according to applicable law.

Are There Deduction Limits for Interest Paid to Related Non-Resident Creditors?	Yes. In related-party transactions, Panama enforces thin capitalization rules and transfer pricing requirements to prevent erosion of the tax base. Documentation supporting the interest rate, aligned with the arm's length principle, must be maintained.

Final Comment

The tax treatment of interest payments to non-residents in Panama requires proper planning to avoid tax contingencies. Companies should evaluate the applicability of DTTs, comply with deductibility and transfer pricing rules, and ensure withholding and tax filings are made within DGI's deadlines.

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Introduction to the Topic

Currently, it is common to find local companies receiving loans from natural or legal people abroad which are not part of the Financial System. These operations are not exempt from tax implications in Peru and are regulated by the Income Tax Law (LIR) and its regulations. Therefore, it is important to know the tax obligation, the applicable tax rate, and the existence of international treaties that apply a reduced rate for the income generated from these loans.

General Concept of Interest

Interest is the cost incurred by a debtor for the money borrowed from either a natural or legal person. In other words, it is the income generated for the counterparty from temporarily transferring their capital. In this sense, Article 1 of the Income Tax Law taxes income derived from capital, i.e., interest, as it represents compensation for the use of someone else's capital.

When is the interest payment considered a source of income?	In Peru, Article 9(c) of the LIR states that, in general, regardless of the nationality or domicile of the parties involved in the operations and the place of celebration or fulfillment of the contracts, income from Peruvian sources includes those produced by capital, such as interest, commissions, premiums, and any additional amounts to the agreed interest for loans, credits, or other financial operations, when the capital is placed or economically used in the country, or when the payer is a domiciled entity in the country.

What is the general tax rate and are there any benefits?	According with Article 56 of the LIR, interest paid to non-domiciled legal entities for external credits is subject to a 4.99% tax, provided the following requirements are met: a) In the case of cash loans, the entry of foreign currency into the country must be proven. b) The credit must not accrue an annual interest rate higher than the prevailing preferential rate in the place of origin.

However, the same law states that the interest paid abroad by private companies in the country for loans granted by a foreign company with which it is linked, or the interest paid abroad by private companies in the country for loans granted by a creditor whose intervention aims to disguise a credit operation between related parties, will be subject to a 30% tax.

How and when should the tax be paid?	Domiciled companies which pay interest to non-resident beneficiaries acts as a withholding agent, meaning it must withhold and pay the tax to the Tax Administration. Tax withholding is made at the time of paying the interest and must be declared within the deadlines set in Article 54 of the Income Tax Law Regulations, using PDT 626, considering the monthly obligation deadlines and according to the last digit of the withholding agent's RUC, as indicated on the Tax Administration's website.

Are there any fiscal obligations that the creditor must fulfill?	The non-domiciled creditor does not have direct tax obligations in Peru unless it has a permanent establishment in the country.

Are there any international treaties that offer a reduced rate?

Peru has signed treaties to avoid double taxation with various countries, which are mentioned below:

- Chile
- Brazil
- Canada
- CAN
- Portugal
- Switzerland
- Mexico
- Korea

For transactions conducted with non-domiciled creditors located in countries that have treaties to avoid double taxation, the tax required in the creditor's country of residence may not exceed 15% of the gross amount of the interest.

Are there limits to the deduction of interest for financing with a non-domiciled creditor who is a related party?	Yes, there are limits to the deduction of interest for financing, which include interest generated between related parties as well as between independent third parties. According to Article 37 of the LIR, the deductibility of net interest may not exceed 30% of the EBITDA from the previous fiscal year.

For this purpose, it is understood as:

1. **Net Interest:** Amount of interest expenses that exceeds the amount of interest income, computable to determine net income.
2. **EBITDA:** Net income after offsetting losses plus net interest, depreciation, and amortization. Net interest that could not be deducted in the fiscal year due to exceeding the aforementioned limit can be added to those corresponding to the four (4) immediately following fiscal years, subject to the limit established by regulations.

Final Comment

Financing operations with non-resident natural and legal people (who do not belong to the financial system) are stated in the Income Tax Law and its regulations. Therefore, companies that conduct such operations must comply with the obligations established by the law to avoid contingencies with the Tax Administration. Likewise, they must consider the treaties signed to avoid double taxation between Peru and the creditor's country of residence.

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Introduction to the topic

This bulletin addresses interest payments made by Uruguayan companies that pay Business Income Tax to individuals or legal entities abroad—that is, those not domiciled or resident in Uruguay—for interest.

It is important to note that there may be variations in the application of the general tax rate, depending on whether the country receiving the interest payment has a valid double taxation agreement (DTA) with Uruguay.

General concept of interests

The term interest refers to income from credits of any nature, whether or not secured by a mortgage and whether or not it carries a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes associated with such securities, bonds, and debentures.

It is important to note that not all countries define late payment penalties as interest in double taxation agreements. Each applicable agreement should be reviewed.

When is the payment of interest considered a source of wealth?	The tax is applied by way of withholding when taxable income is paid or credited to a non-resident.

What is the general tax rate and is there any benefit?	The general tax rate is 12% (twelve percent), with no exemptions. If the interest is paid to a taxpayer from a country with which a double taxation agreement exists, the applicable rate must be analyzed in each individual case, applying the provisions of Article 11 of each agreement. Interest on loans granted to taxpayers subject to the Income Tax on Economic Activities (IRAE) and on bonds issued by such taxpayers, whose assets used to obtain income not subject to this tax exceed 90% (ninety percent) of their total assets valued according to tax regulations, will be exempt from non-resident income tax (IRNR) withholding.
How and when should the tax be paid?	The tax is paid through withholding and must be transferred to the tax authority the month following the payment or accrual of interest, whichever comes first, according to the due date schedule established by the General Tax Directorate (DGI).

Are there any tax obligations that the creditor must comply with?	The creditor must provide the IRAE taxpayer with a tax residency certificate when using a double taxation agreement. For their part, the Uruguayan taxpayer must comply with the following tax obligations: • Calculate, withhold, and pay the tax to the DGI (General Tax Directorate). • File the corresponding informative sworn statement. • Provide the withholding receipt. • Comply with the Transfer Pricing Regulations if the interest is paid to a related party.
Are there international treaties that offer a reduced rate?	Uruguay has signed several treaties to avoid double taxation, which establish a lower rate than the standard rate of 12%.
Are there limits on the deduction of interest from financing with a non-domiciled creditor who is a related party?	If interest is paid to a related party, the Uruguayan taxpayer must complete a Transfer Pricing Report to verify that the interest rates applied are in line with market values. That is, interest must be set according to what is considered reasonable in transactions between independent parties.

Final comment:

In conclusion, interest payments made by a Uruguayan company that is an IRAE taxpayer to a foreign individual or legal entity are subject to Income Tax at the general rate of 12%. The tax will be withheld and paid to the tax authority by the Uruguayan company the month following the payment or accrual of interest, whichever comes first. A reduced rate may apply if a DTA is in effect with the recipient country.

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Final comments

Regardless of the varying tax rates applied in each country on interest payments to non-resident taxpayers, a key consideration is whether a double taxation treaty is in place. Such treaties help ensure that interest income is not taxed both in the country of residence and in the source country.

A common feature across jurisdictions is that the interest-paying debtor is typically responsible for withholding the applicable tax. In cases of non-compliance, the debtor may also be held jointly liable. Therefore, it is important to inform the creditor that interest income may be subject to income tax in the country where it is sourced, and that the tax will generally be withheld and remitted by the debtor.

We hope this bulletin is useful to the reader. Should you require further guidance on this topic, we recommend consulting the authors—specialists in this field—based on the country of your interest.

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July 2025 | Publication No. 3
Legis Tributum Análisis
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