DOING BUSINESS IN CHILE
2018

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INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) on behalf of BDO, its clients and prospective clients. Its aim is to provide the essential background information on the taxation aspects of setting up and running a business in this country. It is of use to anyone who is thinking of establishing a business in this country as a separate entity, as a branch of a foreign company or as a subsidiary of an existing foreign company. It also covers the essential background tax information for individuals considering coming to work or live permanently in this country.

This publication covers the most common forms of business entity and the taxation aspects of running or working for such a business. For individual taxpayers, the important taxes to which individuals are likely to be subject are dealt with in some detail. We have endeavoured to include the most important issues, but it is not feasible to discuss every subject in comprehensive detail within this format. If you would like to know more, please contact the BDO firm(s) with which you normally deal. Your adviser will be able to provide you with information on any further issues and on the impact of any legislation and developments subsequent to the date mentioned at the heading of each chapter.

About BDO

BDO is an international network of public accounting, tax and advisory firms which perform professional services under the name of BDO. The global fee income of BDO firms, including the members of their exclusive alliances, was US$8.1 billion in 2017. These firms have representation in 162 countries and territories, with over 73,800 people working out of 1,500 offices worldwide.

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Regardless of your location, size or international ambitions we can provide effective support as you expand into new areas of the world. In an ever-evolving economic environment, businesses need a global organisation that provides exceptional, bespoke service combined with local knowledge and expertise. BDO is uniquely positioned to serve this demand, providing effective support and a truly global integrated global footprint.

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Introduction

On 29 September 2014, Law 20,780 was published in the Official Gazette. The law provides for a structural reform of the tax system of the country with different effective dates over a 4-year period. Law 20,780 provides, inter alia, a new income tax regime effective from 2017, which is considered the most relevant tax reform over the last 30 years. On 8 February 2016, Law 20,899 was published in the Official Gazette introducing further amendments to the tax system, including also the new income tax regime. Several regulations and administrative interpretations concerning these laws have been published. In this survey, amendments introduced by Law 20,780 and Law 20,899 are reflected as they become effective.

Companies are subject to income tax and to a business licence that is calculated as percentage of capital.

A VAT system and excise taxes also apply. Income from mining operations is subject to a special tax. Employees must make social security contributions.

The tax system applies throughout the entire Chilean territory.

The tax administration is the *Servicio de Impuestos Internos* (SII).

The currency is the peso (CLP).

The Chilean tax system provides a comprehensive system of monetary adjustments to offset the effects of inflation.

The “monthly tax unit” is a tax adjustment index and its value is adjusted monthly by the tax administration in accordance with inflation. The “annual tax unit” is equal to 12 monthly tax units. The “tax unit” is used, inter alia, to determine certain applicable tax rates, whether or not income or gains are taxable, and the amount of fines.

On 29 September 2014, Law 20,780 was published in the Official Gazette. The law provides for a structural reform of the tax system of the country with different effective dates over a 4-year period. Law 20,780 provides, inter alia, a new income tax regime effective from 2017, which is considered the most relevant tax reform over the last 30 years. On 8 February 2016, Law 20,899 was published in the Official Gazette introducing further amendments to the tax system, including also the new income tax regime. Several regulations and administrative interpretations concerning these laws have been published. In this survey, amendments introduced by Law 20,780, Law 20,899 and Law 20,956 are reflected as they become effective.

1. Corporate Income Tax

1.1. *Type of tax system*

In general terms, Chile applies an imputation system. Business, investment and unspecified income is subject to business income tax (*impuesto de primera categoría*) when derived by an enterprise and, thereafter, it is also subject to individual income tax, namely global complementary tax (*impuesto global complementario*), when derived by individual shareholders or to non-resident income tax, namely additional tax (*impuesto adicional*), when derived by non-resident shareholders (both legal entities and individuals). The treatment of domestic intercompany dividends depends on the system chosen by the shareholder (*see further* below). In general, the business income tax paid by the enterprise can be (partially or fully) credited against the shareholders' tax liability. A special ledger is required to keep track of retained profits and the corresponding tax credit. The tax reform introduced by Law 20,780 of 2014 has been gradually changing the business income tax system from 1 October 2014, and will continue to do so until tax year 2018. The new system gives the taxpayer an option between two systems: the attributable income system (*regimen de renta atribuida*) and the partial credit imputation system (*regimen de imputación parcial de crédito*). Under the attributable income system, the same income is taxed in the hands of the business and in those of the shareholder upon accrual, i.e. irrespective of actual distribution. The business income tax paid is fully creditable against the shareholders' tax liability. This system is not available for enterprises having resident legal entities as shareholders. On the other hand, under the partial credit imputation system, income is subject to business income tax at a higher rate (effective from tax year 2017) and subsequently taxed in the hands of the shareholders, but only when effectively distributed. In addition, only a partial credit for the business income tax levied is granted (i.e. 65%). Dividends distributed to resident legal entities are either (i) not subject to business income tax in the hands of the shareholder, provided that the shareholder is also under the partial credit imputation system or (ii) subject to business income tax in the hands of the shareholder (i.e. dividends are included in the taxable base of the entity), in case this shareholder falls under the attributable income system. The government prepared a bill, which was converted into Law 20,899, that introduces some simplifications and clarifications to Law 20,780, whereby the taxpayer may opt (with some restrictions) for one of the systems. If no choice is made, large enterprises are subject to the partial credit imputation system, and the attributable income system is applicable to small and medium-sized enterprises. Besides the two systems referred to, small and medium-sized enterprises can use a simplified system under which the income tax is levied on the difference between receipts and disbursements.

1.2. *Taxable persons*

Any person undertaking commercial, industrial, mining or other business activities is subject to business income tax. Persons deriving income from capital are also subject to this tax. The business income tax is levied on income from any business activity whether the enterprise is a legal entity, a branch, permanent establishment of a foreign company, sole proprietorship or an individual.

This survey is restricted to Chilean-incorporated joint-stock companies (SAs) and limited liability companies (SRLs), as well as to foreign-incorporated entities of a similar nature. These entities are referred to in the text as companies.

Companies are legal persons and taxable entities. Generally, fiscally transparent persons do not exist under Chilean law.

1.2.1. Residence

Companies incorporated in Chile are treated as residents.

Companies and other legal entities organized abroad are treated as non-residents. Permanent establishments in Chile of non-residents are treated as separate entities for income tax purposes and are also considered non-residents.

1.3. *Taxable income*

1.3.1. General

Resident companies are subject to business income tax (*renta de primera categoría* – "first category income") on their worldwide income. Non-residents are subject to non-resident income tax on their Chilean-source income (*impuesto adicional*). In general, Chilean-source income is income from assets located in Chile or activities carried out therein. The legislation also establishes other specific sourcing rules, which include certain types of services rendered abroad and paid from Chile (subject to *impuesto adicional*).

First category income includes generally all income other than income from dependent or independent personal services realized by individuals or by professional companies. All items of income are taxable except those specifically excluded from the concept of income and those specifically exempt.

Taxable income is defined as gross income less direct costs of goods and services, and necessary expenses to produce that income, adjusted for inflation and corrected as provided by law. Chilean-source income is calculated on a cash or accruals basis. Foreign-source income is generally calculated on a received basis; however, income derived by permanent establishments of resident companies located abroad is calculated on an accruals basis (*see also* section 7.4. on CFC rules). The computation of annual income is generally based on the taxpayer's accounting records.

Domestic intercompany dividends are either (i) not subject to business income tax in the hands of the shareholder, provided that the shareholder is taxed under the partial credit imputation system or (ii) subject to business income tax in the hands of the shareholder (i.e. dividends are included in the taxable base of the entity), in case this shareholder is under the attributable income system. For details, *see* section 1.1.

1.3.2. Exempt income

The income tax law provides that some receipts (*ingresos que no constituyen renta*) are not considered income for tax purposes and thus are not subject to income tax and are not included in tax returns. These include:

- indemnity payments received for actual material damages, and non-material damages when declared by the courts, but excluding indemnity payments with respect to assets belonging to a business or activity subject to business income tax on actual income (however the damaged assets may be deductible as an expense);
- capital contributions received by companies from their shareholders or partners; the appreciation resulting from the revaluation of capital made under the integral adjustment mechanism established in the Income Tax Law; and the excess over par value obtained by a joint-stock company when placing its shares on the market, provided that it is not distributed;
- the distribution of profits and accumulated reserves by joint-stock companies to their shareholders in the form of stock dividends or any increase in the par value of the shares realized by capitalization of the company's profits or reserves;
- dividends paid by joint-stock companies out of receipts which are not considered to be income for tax purposes;
- refund of capital by companies and capital revaluations authorized by law, provided that the distributions do not pertain to capitalized profits subject to income tax upon distribution;

- the repatriation of capital invested abroad. In order to substantiate the capital nature, the investment can be registered with the tax administration and/or be substantiated by other means; and
- certain capital gains from the alienation of shares (*see* sections 1.4.1. and 1.7.3.) and bonds (*see* section 1.7.9.).

Income exempt from business income tax includes:

- dividends distributed to resident legal entities, provided that the distributing company and shareholder are both under the partial credit imputation system (*see* section 1.1.); and
- certain capital gains from the alienation of shares and bonds (*see* sections 1.4.1. and 1.7.3.).

1.3.3. Deductions

1.3.3.1. Deductible expenses

In general expenses are deductible, provided that they are deemed necessary for earning taxable income and provided that a deduction is not specifically disallowed under the income tax law. The tax administration has stated, based on the tax legislation that a deductible expense must: be related directly to the business or activity; be necessary for the production of the income (i.e. unavoidable or compulsory for carrying on the business); not be deducted as part of the direct cost of goods and services required for obtaining the income; actually be incurred in the period; and be substantiated before the tax administration.

Dividends are not deductible, whereas interest and royalties generally are.

Outbound payments made under contracts with related parties, which are subject to the non-resident income tax according to article 59 of the LIR (including royalties, interest, service fees, leasing and insurance premiums), are deductible in the tax year of payment, provided that the non-resident income tax is paid or the payment is exempt or excluded from such tax under domestic law or under a tax treaty (article 31 of the LIR as amended by Law 20,780).

1.3.3.2. Non-deductible expenses

Non-deductible expenses include:

- amounts incurred for the acquisition, leasing or maintenance of cars and other vehicles, unless the transaction represents the normal business of the enterprise or is deemed necessary by the tax administration;
- amounts incurred for the acquisition, maintenance or exploitation of property not used for the business activities of the enterprise;
- the portion of gifts for educational purposes that is creditable under specific laws;
- interest paid in respect of loans used directly or indirectly to acquire, maintain and/or exploit goods producing income not subject to business income tax. However, interest paid in respect of loans used for acquiring shares, participation rights in companies, bonds and, in general, all types of securities (*capital mobiliario*) may be deductible provided it satisfies the general requirements described in section 1.3.3.1.;
- capital expenditures;
- compensation for personal services of the taxpayer's spouse or unmarried children under the age of 18;

- fees paid by a partnership to a partner for independent personal services; and
- expenses incurred in supermarkets or similar markets, unless they are necessary for the taxpayer's habitual business and comply with some additional requirements.

Non-deductible expenses (*gastos rechazados*) are generally added back to the net income of enterprises and are deemed to be distributed at the end of the tax period and subject to income tax accordingly. This income tax is payable by the shareholder or the company, depending on the circumstances. Where payable by resident companies or permanent establishments of foreign enterprises, these expenses are subject to a single tax at the rate of 40%. Where the income tax on these type of expenses is not payable by the company, the individual income tax (*impuesto global complementario*) or the withholding tax on non-residents (*impuesto adicional*), applies instead of the 40% single tax, and the tax so determined is increased with a 10% of the amount of the "deemed distribution".

1.3.4. Depreciation and amortization

Generally, tangible assets must be depreciated in accordance with the straight-line method, i.e. a fixed percentage of the depreciable value may be deducted in each year in accordance with the useful life of the asset, taking into account the residual value.

Accelerated depreciation is available with respect to new or imported assets with a useful life of 3 years or more. Under the accelerated depreciation method, the taxpayer may calculate depreciation deductions on the basis of a useful life that is equal to one third of the normal useful life of the asset. Accelerated depreciation is optional.

Taxpayers may also opt to depreciate fixed assets considering a useful life of 1 year, provided that (LIR as amended by Law 20,780):

- in the previous 3 years to that in which the new or used assets will start to be used, the taxpayer derives annual average receipts not exceeding 25,000 indexed units (*unidades de fomento*, UF). If the enterprise has less than 3 "years of existence", the annual average will be calculated considering the effective "years of existence"; or
- the taxpayer's effective capital does not exceed 30,000 UF. This is applicable in case the taxpayer does have activities in the 3 previous years.

In addition, taxpayers may opt to depreciate fixed assets considering a useful life of a tenth (1/10) of that established by the tax administration, provided that in the previous 3 years to that in which the new or imported assets will start to be used, a taxpayer derives annual average receipts of more than 25,000 UF but less than 100,000 UF. The useful life in this case may not be less than 1 year. If the enterprise has less than 3 "years of existence", the annual average will be calculated considering the effective "years of existence".

Depreciation is calculated on the net value of tangible fixed assets at the end of the tax period, after adjustment for inflation. Depreciation related to spare parts and accessories may be taken as from the date on which they are used.

The period of the useful life of some assets has been specified by the tax administration. Depreciation allowances on assets that have become obsolete before the end of their useful life may be taken at twice the normal depreciation rate. Under certain circumstances, the tax administration (SII) may authorize a special depreciation rate; a higher depreciation rate may be available for an asset if its useful life is shorter than normal, for instance in cases where the asset is used in two or more shifts, is used in the processing of corrosive products, or in saline or corrosive environments.

Type of asset	*Years*
Machinery in general	15
Trucks for general use	7
Furniture and implements	7
Heavy tools	8
Light tools	5
Pickups, cars and buses	7
Wooden sheds, either closed or open	20
Metallic sheds	20
Factory buildings of a permanent nature (brick masonry)	40
Wooden houses	30
Buildings, apartments and isolated houses	50
Buildings with steel structures and T-beams	80
Single-engine planes with capacity for six passengers	10
Computation or data-processing equipment	6
Audio and video equipment	5

Exploration costs may, at the option of the taxpayer, be deducted in the first tax year or amortized over the first 6 years of the project.

There is no amortization of intangibles.

Note that depreciation rules are subject to some specific changes effective as from tax year 2017.

1.3.5. Reserves and provisions

Amounts added to reserves or provisions, including provisions for future expenses or for bad debts, are normally not deductible.

Technical provisions of insurance companies are deductible up to the compulsory amount required by the Superintendency of Securities, provided that the gross amount of the corresponding premiums is duly registered. Voluntary contributions to the reserves in excess of the compulsory amount are not deductible.

1.4. *Capital gains*

Capital gains are generally considered ordinary income and are thus subject to business income tax (and, subsequently, to individual income tax or non-resident income tax with a credit for the business income tax paid) when realized, i.e. in the case of a sale or disposition of fixed assets.

Capital gains may also be excluded from the scope of income tax (*see* section 1.7.3.).

1.4.1. Immovable property

From year 2017, a distinction should be made based on the date of the acquisition of the immovable property.

Regarding immovable property acquired before 2004:

Capital gains arising from the alienation of such immovable property that is part of the assets of a person subject to business income tax on actual net income (based on complete accounting) are subject to tax under the general rules.

Capital gains arising from the alienation of immovable property, other than that mentioned above, are not taxable income, unless:

- the property has been owned for a year or less prior to the alienation;
- the alienator habitually buys and sells properties (transactions are always considered "habitual" when included in the company's deed of incorporation as part of the business); or
- transactions are carried out between shareholders of an open joint-stock company, owning 10% or more of the shares, or shareholders of a closed company limited by shares and the company in which they have an interest (related parties).

Regarding immovable property acquired on or after 2004:

Capital gains arising from the alienation of such immovable property are subject to tax under the general rules.

However, gains arising from the alienation of immovable property owned by individuals (residents or non-residents) are not taxable income if the property has been owned for at least 1 year prior to the alienation (or 4 years in the case of apartments or subdivided property). This exemption applies up to a 8,000 UF gains threshold which is determined per each individual during his entire life (not per alienation). Any gain in excess of the mentioned threshold is subject to individual income tax (*impuesto global complementario*) or withholding tax on non-residents (*impuesto adicional*), as appropriate. Individuals resident in Chile may opt for a 10% flat tax.

1.4.2. Shares

Before year 2017, capital gains from the alienation of shares were subject to business income tax and, subsequently, to individual income tax or non-resident income tax with a credit for the business income tax paid, where:

- shares have been owned for less than a year before the alienation;
- the alienator habitually buys and sells shares (transactions are per se considered "habitual" when included in the company's deed of incorporation as part of the business); or
- transactions are carried out by shareholders of an open joint-stock company owning 10% or more of the shares, or shareholders of a closed company limited by shares or members of other companies, or in the case of transactions between the above shareholders or members and the joint-stock company or a company in which they have an interest (related parties).

If none of the above circumstances apply, capital gains from the alienation of shares were subject to a flat tax (*impuesto único a la renta*) and the income was not subject to a further individual income tax or non-resident income tax.

Capital gains from the alienation of shares are exempt from tax when derived by persons that are not subject to business income tax on actual net income, provided that the gains do not exceed ten monthly tax units or ten annual tax units, depending on certain conditions.

From year 2017, capital gains arising from the alienation of shares when derived by persons that are subject to business income tax on actual net income are subject to tax under the general rules.

In other cases, the capital gains are subject to individual income tax (*impuesto global complementario*) or a withholding tax on non-residents (*impuesto adicional*) of 35%, as appropriate.

However, capital gains from the alienation of shares acquired before 31 January 1984 are never considered income for tax purposes and thus are not subject to income tax.

In addition, capital gains from the alienation of shares are exempt from tax when derived by persons that are not subject to business income tax on actual net income, provided that the gains do not exceed ten annual tax units.

For other tax-exempt capital gains, *see* sections 1.7.3., 1.7.4. and 1.7.9.

The Chilean Income Tax Law defines the taxable base for capital gains essentially as "sale price" minus "tax cost" of the shares. Tax cost is defined as the cost of acquisition of the shares adjusted because of any capital increase or capital reduction, as appropriate. Each amount involved in the determination of the tax cost should be indexed according to the Consumers Price Index (*Índice de Precios al Consumo*, IPC).

1.5. *Losses*

1.5.1. Ordinary losses

Before 1 January 2017, losses were deductible as an expense against profits of the tax year and could be set off against undistributed profits. If the profits were not sufficient to offset the losses, the losses could be carried forward indefinitely.

If losses were set off against non-distributed profits, the business income tax paid on such profits was treated as an advance payment and could be set off against income taxes (business income tax, individual income tax or non-resident income tax) or refunded.

From 1 January 2017, losses continue to be deductible against profits of the tax year as an expense. If the profits are not sufficient to offset the losses, the losses can be carried forward indefinitely. However, the carry-back of losses is no longer available.

Losses incurred by a company before the transfer of its shares or its rights to participate in the profits may not be set off against the income accrued or received after the transfer if:

- as a result of the transfer or during the 12 months before or after the transfer, the company changes its principal business purpose;
- at the time of the transfer, the capital assets or other assets of the company are not sufficient to carry out the company's activity;
- the value of the assets is not proportional to the transfer price; or
- the company's income will be derived only from the participation as a partner or shareholder in other companies or from the reinvestment of its profits.

Losses arising from the disposal of securities cannot be deducted from taxable income if gains arising from the disposal of the securities would be excluded from taxable income.

1.5.2. Capital losses

Generally, there are no special rules for capital losses.

1.6. *Rates*

1.6.1. Income and capital gains

For tax year 2017, the rate of the business income tax is 25% for legal entities under the attributable income system and 25.5% for those under the partial credit imputation system (*see* section 1.1. for the systems).

Law 20,780 provides for an increase of the income tax rate over a 4-year term. Accordingly, income derived or accrued in the following years will be subject to business income tax at the following tax rates:

- 2014: 21%;
- 2015: 22.5%;
- 2016: 24%;
- 2017: 25% (attributable income system) or 25.5% (partial credit imputation regime); and
- 2018: 25% (attributable income system) or 27% (partial credit imputation system).

The rate has fluctuated considerably over the last 10 years: 20% in 2011-2013; 17% in 2004-2010; 16.5% in 2003; 16% in 2002; 15% before 2002.

1.6.2. Withholding taxes on domestic payments

Generally there is no withholding tax system on payments to resident companies. However, the business income tax must be paid in monthly instalments (*see* section 1.8.3.).

For withholding tax on payments to non-residents, *see* section 6.3.

1.7. *Incentives*

The most relevant incentives are described below.

1.7.1. Accelerated depreciation

Accelerated depreciation is available with respect to new or imported assets with a useful life of 3 or more years. Under the accelerated depreciation method, the taxpayer may calculate depreciation deductions on the basis of a useful life equal to one third of the normal useful life of the asset. Accelerated depreciation is optional (*see* section 1.3.5.).

1.7.2. Foreign Investment

In general, Chile’s legal framework presents features that are very relevant for foreign direct investments: the Chilean Political Constitution grants the right to non-discrimination between nationals and foreigners; the entry of foreign capitals is not subject to previous permissions by the Chilean Central Bank or any other public entity; and the capital of a Chilean company may be 100% held by foreign investors. Furthermore, foreign investors can have access to all economic sectors (except for some particular cases in the service sector, i.e. transport and fishing), in the exploitation and treatment of hydrocarbon, lithium, uranium and nuclear energy, as well as in the acquisition of real estate in borderlands.

For the last 30 years, Chile's regulation that specifically addressed foreign direct investment was Decree Law 600, according to which foreign investors could voluntarily apply for the conclusion of "foreign investments contracts" with the Chilean State. These contracts granted certain rights and stability clauses for their investments in Chile. However, pursuant to Law 20,780, Decree Law 600 was abolished with effects from 1 January 2016.

Foreign direct investment is currently regulated by Law 20,848, which was published in the Official Gazette of 25 June 2015.

Law 20,848 regulates: (i) the main aspects of a state strategy regarding the promotion and attraction of foreign investment; (ii) the creation of a new institution specialized in foreign investment, as well as; (iii) a new legal framework regarding foreign direct investment in Chile, as explained below:

(1) According to Law 20,848, Chile shall have a state strategy regarding the promotion and attraction of foreign investment that will be approved by the President of the Republic. This strategy is recommended to the President by a specific Committee of Ministers, whose permanent members will be the Minister of Economy, Development and Tourism and the Minister of Finance. This "Committee" shall invite other Ministries to participate in their meetings depending on the economic sectors the foreign investment strategy will be focused on.

(2) Law 20,848 creates the Investment Promotion Agency, a 100% public institution that shall advise the Committee on foreign direct investment matters and which will be responsible for implementing the foreign investment strategy. In addition, said "Agency" will convene a public-private council that will provide its advice on mid and long-term investment objective and will evaluate the activities and services provided by the Agency to foreign investors.

(3) Regarding the new legal framework for foreign investment established by Law 20,848, foreign investors may voluntarily apply for a foreign investor certificate issued by the Investment Promotion Agency if certain legal requirements are met (e.g. minimum investment amount of USD 5 million). This certificate provides the investor with an official recognition by the Chilean State of its quality as a foreign investor and explicitly acknowledges the existence of certain rights that are also granted in the common legal framework:
    - access to the "formal" exchange market and- the right to repatriate investment capital and profits, upon the fulfilment of their tax obligations(subject to Central Bank's legislation); and
    - protection against arbitrary discrimination.

Notwithstanding the above, there are two cases in which obtaining this certificate by foreign investors is "mandatory" (i.e. a requirement):

- in order to apply for an exemption of VAT on imported capital assets. This exemption is granted by the Ministry of Finance if certain legal requirements are met; and
- in order to apply for one of the following "tax invariability" contracts that relates to certain provisions of the abolished Decree Law 600:
    (i) invariability of a total effective income tax of 44,45% for a period of 10 years since the signing date of contract; or
    (ii) invariability of the special tax on mining income applicable on the date of signing of the contract, for a period of 15 years, provided the investment project is of at least USD 50 million.

These tax invariability contracts can be executed between the Chilean State and a foreign investor who is entitled to apply for one of these contracts during a 4-years period beginning on 1 January 2016.

With respect to contracts between the Chilean State and foreign investors under the abolished Decree Law 600:

- since 1 January 2016, no new foreign investment contracts pursuant the abolished Decree Lay 600 will be signed;
- contracts signed before 1 January 2016 remain fully in force and foreign investors' rights and obligations under those contracts are guaranteed, meaning that the following rights are contractually granted:
  - (i) access to the formal exchange market;
  - (ii) free repatriation of capital and profits;
  - (iii) non-discriminatory legal treatment;
  - (iv) the option to pay and effective fixed overall tax of 42% on taxable income for a period of 10 years instead of the general income tax applicable. Decree Law 600 investors, may opt out of this mechanism at any time and pay the general income tax applicable at that time. The opt-put is, however, irrevocable;
  - (v) in the case of investments over USD 50 million in mining activities, for a period of 15 years, foreign investors could apply for the invariability of the special tax on mining income defined in articles 64bis and 64ter of the income tax legislation (LIR); and
  - (vi) the possibility to freeze the existing rate of VAT (for a limited period of time) for machinery and equipment not manufactured in Chile, imported to Chile in relation to the specific investment project.

1.7.3. Capital gains on the alienation of shares

Alienation of shares

Capital gains from the alienation of shares of a resident joint-stock company whose shares are regularly quoted in the stock exchange are not considered income for tax purposes when, among others requirements:

- the shares are acquired on the stock exchange (i) through a public offer under Law 18,045, (ii) in a public tender for acquisition of new shares in case of a company's incorporation or capital increase, (iii) in an exchange of convertible bonds or (iv) on a redemption of securities made from a fund;
- the shares are sold on the stock exchange through a public tender under Law 18,045, or through a contribution of securities to a fund.

Institutional investors

Before Law 20,712 (*Ley Única de Fondos*), article 106 of the LIR established that capital gains from the alienation of shares and other securities were also exempt from tax when derived by institutional investors constituted abroad and not domiciled in Chile and that complied with other legal requirements (e.g. mutual funds or pension funds), provided that:

- the gains were realized through the alienation of shares of a resident open joint-stock company whose shares were substantially and regularly traded on a Chilean recognized stock exchange (*presencia bursatil*), bonds issued by the central bank, the Chilean government or Chilean incorporated enterprises; or
- gains were realized from the redemption of units in mutual funds.

The fund should have not had participation in the control of the companies that issued the securities, must have held less than 10% of their capital and must have been entitled to less than 10% of the profits of those companies.

The transactions must have been made on a Chilean stock exchange or through another mechanism authorized by the supervisor of securities and insurance.

Law 20,712 abolished this specific tax incentive; however, according to transitional provision No. 9, institutional investors are still entitled to some tax benefits under certain conditions.

See also section 1.7.5.

1.7.4. Special regime for income from bonds

According to article 104 of the Income Tax Law (LIR), as amended by Law 20,780 and Law 20,956, capital gains derived from the placement or disposal of bonds are non-taxable income if certain requirements are met..

Eligible bonds must:

(i) be issued in Chile;

(ii) be registered in the Register of Securities according to Law 18,045, which implies that the bond issuer must also be dully registered before the Superintendence of Securities and Insurance (SVS), among other requirements;

(iii) be explicitly subject to article 104 of the LIR (and declared so in its issuance documentation); and

(iv) have, besides from the coupon interest rate, a “fiscal interest rate”, calculated according to a specific formula provided by article 104 of the LIR, in order to determine “accrued interest” for business income tax purposes (under article 20 No. 2 of the LIR).

In addition, other requirements apply to the transfer of the bond and the alienator (e.g. minimum holding period, acquisition and alienation on a local authorized stock exchange, authorized intermediaries, etc.).

The SVS keeps a public registry of fiscal interest rates of issued bonds.

Bonds issued by the central bank or the Treasury and listed by the Finance Minister are also eligible (special rules apply regarding certain requirements).

If the gain from the alienation of bonds does not comply with the legal requirements, the gain will be subject to tax under the general rules.

Special rules apply for the treatment of advance payment or redemption of eligible bonds, e.g. the amount received is treated as interest to the extent that it exceeds the face value of the debt (this interest is accrued in the year of the payment or redemption).

1.7.5. Funds

Law 20,712 (*Ley única de fondos*), published in the Official Gazette of 7 January 2014, systematizes and modernizes the fund administration legislation with the aim to improve the country’s international competitiveness and to simplify the funds’ tax treatment.

The Law aims to improve the access to financing for small and medium-sized enterprises (SMEs) and the risk capital industry, allowing the positioning of the country as a regional platform for financial services and fund administration.

The main general features of the Law are as follows:

- it consolidates, in a single law, the legislation applicable to fund administration, i.e. mutual funds, investment funds, foreign capital investment funds and housing funds;
- it outlines the general treatment of fund administrators, including their incorporation and capital structure, requirements to perform this activity, prohibitions and responsibilities, and the procedure to liquidate the fund administrator and its funds;
- it improves the private investment funds regulations;
- it increases the requirements to perform the fund administration activity in order to guarantee a necessary level of technical expertise; and
- it provides more flexibility to fund administrators concerning the product offer, but at the same time it provides a greater control and regulation power for the Supervisor of Securities and Insurance in order to protect the investors and to guarantee principles of transparency, market regulation and equity.

The main tax provisions of the Law are as follows:

- for funds, a final income tax is applicable at a rate of 10% on fund earnings (*see* section 1.7.5.1.) remitted to foreign investors in all types of funds constituted under the new law. Capital gains from the alienation or redemption of fund quotas is also subject to this 10% final income tax;
- for funds (i) allocating more than 80% of their investments in a foreign country and (ii) where dividends and other fund earnings derived from domestic investments must be distributed by the fund and are then subject to the current income tax rules, foreign investors may benefit from a tax exemption with respect to capital gains derived from the alienation of their fund participating interests, and fund distributions derived from foreign investments; and
- the provision of fund administration services to foreigners is exempt from VAT (this exemption does not apply to private investment funds).

The Law 20,712 also introduced an exemption from VAT for the remuneration of the administrator of a housing fund regulated by Law 19,281.

1.7.5.1. Foreign investment funds

Before Law 20,712, foreign investors could structure their investment through a foreign investment fund and then be subject to tax at the flat rate of 10% on remittances from the fund. The investment must have been maintained in Chile for at least 5 years to enjoy this benefit. Law 20,712 abolished this tax regime, however according to a transitional provision, taxpayers that were beneficiaries of this regime can still enjoy the benefits under certain conditions.

1.7.5.2. Investment funds

According to article 107 of the Income Tax Law (LIR), gains from the alienation, on a authorized stock exchange, of units in investment funds (purchased after 19 April 2001) regularly quoted on an authorized stock exchange, are excluded from taxable income under certain other requirements.

Gains from the alienation, on an authorized stock exchange, of units in investment funds, which are not regularly quoted on a stock exchange, and gains from the redemption of such units on liquidation or a voluntary reduction in capital, are excluded from taxable income, provided that the by-laws of the relevant fund require that at least 90% of the fund's portfolio is invested in shares regularly quoted on a stock exchange and other legal requirements are met.

If the units are sold within 90 days from the date on which they cease to be regularly quoted in the stock exchange, the gain is exempt up to the average price during the last 90 days in which they were regularly quoted. The remainder of the gain is treated as ordinary income.

1.7.5.3. Risk capital companies

According to Transitional Article No. 1 of the Law 20,190, as amended by Law 20,712 and Law 20,780, there are certain incentives related to "risk capital companies" (venture capital companies):

(i) capital gains in excess of certain amount (which is calculated under a specific formula based on the return rate of the stock market index in Chile), obtained from the alienation of shares in risk capital companies, are non-taxable income, if certain requirements are met (e.g. investment made in a joint-stock company which was not traded on the stock exchange, certain minimum holding period, alienation between non-related parties, maximum participation threshold, etc.). This benefit is available to participants in investment funds who invest exclusively in risk capital companies and comply with other specific requirements provided in the mentioned legislation; and

(ii) Law 20,190 also provides a benefit for shareholders of risk capital companies in which such investment funds have at least 25% participation. Accordingly, these shareholders can consider as their acquisition cost the highest amount paid by one of such investment funds in the most recent placement of first issue shares by the company, if certain other conditions are met.

1.7.6. Business platform regime

The business platform regime enables foreign investors to set up a joint-stock company (platform or offshore company) in Chile to channel and manage investments in third countries without paying Chilean income tax on the income from those investments. Chilean residents may also acquire shares in a platform company subject to certain limits, in which case they will be subject to income tax according to the rules applicable to shareholders of non-resident companies with respect to these investments.

A platform company must be incorporated under Chilean law as an open joint-stock company, or as a closed joint-stock company subject to the same regulations as open joint-stock companies. Platform companies may invest abroad and in Chilean public joint-stock companies. They may also provide services to non-resident subsidiaries and associated companies, provided the associated companies are not located in tax havens (*see* section 7.1.).

Platform companies are not considered residents and are therefore only subject to income tax on Chilean-source income. Dividends paid to these companies by Chilean joint-stock companies are subject to withholding income tax (non-resident income tax) at the rate of 35%, with a credit for the business income tax paid by the Chilean joint-stock company. Foreign income from investments, services and capital gains is not subject to income tax (income derived by the platform company and dividends paid by the platform company to non-resident shareholders are not subject to income tax in Chile).

1.7.7. Research and development credit

Law 20,241, as amended by Law 20,270, establishes that business income taxpayers reporting their taxable income on the basis of full accounting records and investing in research and development (R&D) may credit amounts invested in R&D against the business income tax liability.

The R&D investment must be made under a written R&D contract with a registered research centre (which must comply with certain conditions) for an amount exceeding 100 monthly tax units (*Unidad tributaria mensual*, UTM).

The credit is 35% of payments made in the tax year under the R&D contracts. The annual credit is limited to 15,000 UTMs per year. Payments exceeding the maximum annual credit are deductible expenses. Any excess credit may be carried forward. Taxpayers can apply to this tax benefit, complying with the legal procedures, until 31 December 2025.

1.7.8. Credit for investment in tangible fixed assets

Under article 33 bis of the Income Tax Law, business income taxpayers reporting their taxable income on the basis of full accounting records that acquire, under a lease with the option to purchase or construct, tangible fixed assets, may receive a credit against the business income tax of the same year of the acquisition, the take of the lease-option or the completion of construction, if certain conditions are met. The credit is a percentage of the value of the assets calculated under various rules. The annual credit may not exceed 500 UTM. Excessive credit may not be refunded.

1.7.9. Benefits for reconstruction gifts

Law 20,444, as amended by Law 20,565, grants tax credits and other benefits for gifts given by residents or non-residents to a national fund for reconstruction in the wake of natural disasters. The gift must be made within 2 years following a disaster, as specified by the President. The benefits include:

- taxpayers of business income tax that report their income on a balance sheet and full accounting records may obtain, if certain requirements are met, a credit against such tax for an amount equal to the 50% of the value of the gift (in cash of in kind). The credit only applies against the business income tax of the same year in which the gift is given. Excess credit cannot be used against other taxes and will not be refunded. The part of the amount of a gift that is not allowed as a credit may be deductible against the taxable income of the tax year in which the gift is given. The legislation also establishes certain limitation of the total benefit available to a taxpayer per year; and
- non-resident taxpayers of income tax (*impuesto adicional*) may credit 35% of their gifts made in cash in the same tax year against the tax levied on dividends, profit distributions and remittances, under certain requirements and limitations.

In addition, the legislation also provides for tax benefits to specific projects qualified, under certain conditions, by the Ministry of Finance.

1.7.10. Regional

There are various incentives available in certain regions, such as preferential regimes and special benefits or exemptions with respect to customs duties or domestic taxes.

1.8. *Administration*

1.8.1. Taxable period

The tax year is the calendar year, except in special cases (e.g. opening and closing periods).

The Chilean income tax law uses the term *año comercial* (financial year) to refer to the tax year and *año tributario* (literally, tax year) to refer to the year of assessment.

1.8.2. Tax returns and assessment

The income tax must be computed and paid by taxpayers on a self-assessment basis. The annual income tax return must be filed in April of the year following the tax year.

1.8.3. Payment of tax

Enterprises are required to make monthly advance tax payments throughout the year, calculated by applying a certain percentage to gross receipts derived. Advance payments are creditable against the annual tax liability when filing the annual return. The rate of advance payments is generally determined so as to match the final business income tax liability. The advance tax payment for each month must be paid within the first 12 days of the following month.

Taxpayers who incur a loss in an accounting year, or in any of the first three quarters of that year, are free from the obligation to make advance payments for the following quarter, provided that the loss is shown in a profit and loss statement. If the taxpayer derives a profit in any quarter, he must resume advance payments in respect of receipts earned as of the following quarter. If an enterprise reports annual losses and subsequently obtains profits and resumes advance payments, the percentage to be used until the month in which the next annual income tax return is due for filing is 1%.

The final tax liability must be paid upon filing of the annual income tax return in April of the year following the tax year.

1.8.4. Rulings

The tax administration (SII) is in charge of the interpretation, application and enforcement of tax legislation. The SII's Commissioner is empowered to give administrative interpretations of tax law, addressed to officials or taxpayers.

Requests for general guidance on the application of the tax legislation regarding cases in which the taxpayer has a real interest or which involve specific transaction are answered. Administrative decisions are published on the SII's website.

2. Transactions between Resident Companies

2.1. *Group treatment*

Chilean tax law does not include provisions concerning taxation on a consolidated basis. Accordingly, losses may only be offset against profits of the company that incurred them.

2.2. *Intercompany dividends*

Dividends or other profit distributions are in general not taxed when received by resident companies. Foreign-source dividends are taxed (*see* section 6.1.1.). For dividends derived by non-residents, *see* sections 6.2.1. and 6.3.1.).

3. Other Taxes on Income

Generally, there are no other taxes on income in addition to the normal income tax.

However, mining enterprises are subject to a specific tax on income (*see* section 3.1.).

In addition, there exists a simplified income tax regime for small taxpayers, i.e. micro, small and medium-sized companies, provided by article 14 ter of the Income Tax Law (LIR) as amended by Law 20,780. This regime is effective for tax years 2015 and 2016. Taxpayers that were subject to other income tax regimes on 31 December 2014 (i.e. regimes provided by articles 14 bis or 14 quarter LIR) could opt to continue to be taxed under those regimes until 31 December 2016. Effective 1 January 2017, a new special regime will be effective under a new article 14 ter of the LIR. Under the regime the taxpayer is basically subject to ordinary income tax on the surplus of receipts over disbursements based on his records and invoices.

There is also a simplified income tax regime on presumptive income for small agricultural, land transport or mining businesses. For this purpose, annual sales or gross receipts must not exceed specific legal thresholds (under Law 20,780, effective from 2016, new thresholds are applicable). The tax is a percentage of the value of the immovable properties, vehicles or annual net sales of mining products. Law 20,899 provided that businesses may only be subject to this regime when they are formed exclusively by individuals during the time the regime is applicable.

Non-deductible expenses (*gastos rechazados*) are also subject to a special taxation (*see* section 1.3.3.2.)

3.1. *Special tax on mining income*

Income from mining activities is subject to a specific tax on "operational income" in addition to the general income tax. The tax (*impuesto específico a la actividad minera*) is deductible for income tax purposes.

3.1.1. Taxable persons

Taxable persons are those that have been granted concessions to recover minerals and sell them at any production stage.

3.1.2. Taxable income

Operational taxable income is equal to the net taxable base for business income tax with some adjustments, i.e. income, costs or expenses not directly related to the sale of mining products have to be eliminated, and accelerated depreciation and losses from previous years are not deductible.

3.1.3. Rates

Tax rates vary with several factors: annual sales of mining products, profit margins, tax year, outstanding contract with the government and contractual terms.

Mining companies whose annual sales do not exceed the equivalent value of 12,000 metric tons of fine copper are exempt from the special tax on mining income.

Mining companies whose annual sales exceed the equivalent value of 12,000 metric tons of fine copper and do not exceed the equivalent value of 50,000 metric tons of fine copper are taxed at progressive rates varying from 0.5% to 4.5%.

Mining companies whose annual sales exceed the value of 50,000 metric tons of fine copper are taxed at a rate which depends on their “mining operational margin” and that varies from 5% to 34.5%, with a final bracket of 14% (Law 20,469).

Foreign investors, and enterprises that receive foreign investments, are not subject to these rules provided they have concluded a contract with the government under the Foreign Investment Statute (D.L. 600) which provides for the effective fixed overall tax rate of 42% on taxable income (*see* section 1.7.2.). However, these investors and enterprises, and Chilean enterprises, that had concluded a contract with the government under Law 20,026, could opt for a 3-year net extension of their contracts with specific rates. Other taxpayers are subject, during the 6 years, to the new rules of Law 20,469, and thereafter, to rules then in force. Investors and enterprises that do not use the option explained above are subject to old rules and rates established by Law 20,026 for the remaining term of their contract.

4. Taxes on Payroll

4.1. *Payroll tax*

Chilean tax law does not include provisions regarding payroll tax.

4.2. *Social security contributions*

Social security contributions are payable by employees. They are calculated on the employee remuneration up to a maximum remuneration of 74.3 development units in 2016. Social security contributions are also payable by independent workers (*see* Individual Taxation section 3.).

Employers and employees (in some cases) are also subject to:

- a contribution at the rate of 0.95% to cover work accidents;
- depending on the degree of risk of the activity, an additional contribution at a rate of up to 3.4%;
- contributions for “heavy” work: both the employer and the employee must contribute 2% of the salary to the individual capitalization account (the percentage may be reduced to 1% in certain circumstances);
- employment insurance: the employer contributes 2.4% of the part of the salary not exceeding 111.4 development units in 2016 (the employee contributes 0.6% of that part of the salary with the same cap, and the state contributes 18,816 tax units per month); and
- premiums for the financing of disability and life insurance: a percentage which is subject to auction and accordingly may vary from time to time (1.41% from July 2016 until June 2018) . Premiums are payable by employers irrespective of the number of workers.

5. Taxes on Capital

For other taxes, *see* section 9.

5.1. *Net worth tax*

Business licence fees, normally calculated as a percentage of capital, must be paid annually to the municipalities (*patente municipal*).

The tax is assessed on the initial capital declared by the taxpayer in case of new activities or the capital registered in the balance sheet ending on 31 December of the year preceding the date on which the return must be filed. Capital invested in other businesses or enterprises, also subject to payment of the licence fees, is deductible. The total amount of the licence fee due is paid proportionally by each branch, office or establishment, according to the number of employees.

The tax rate varies according to the municipality and location within the municipality and ranges from 0.25% to 0.5%. It may not be less than one tax unit nor exceed 8,000 tax units. Taxpayers who are not required to pay their income tax on the basis of a general balance sheet are liable to an annual licence fee equal to one monthly tax unit.

5.2. *Real estate tax*

The immovable property tax (*impuesto territorial or contribuciones de bienes raíces*) is levied on an annual basis on urban or rural immovable property. It is administered by the central government and the revenue is allocated to the municipalities.

Taxable persons are the owners or users of the property.

The taxable base is the official cadastral value. An exemption is granted for properties whose cadastral value does not exceed a certain limit. The tax is levied on that part of the cadastral value of each piece of immovable property exceeding the relevant exempt limit without regard to the number of owners or to the taxpayer's personal wealth. For urban property used as dwelling house the rate is progressive and is divided into three brackets, the limits of which are adjusted every semester for inflation: the first bracket is exempt, the second is taxed at 1% and the third is taxed at 1.2%. Other urban property is taxed at a flat 1.2% rate. Rural land is taxed at a 1% rate. Farmers and owners or usufructuaries that lease property may credit the tax against their liability to business income tax. In the case of non-agricultural property, the tax is creditable. Non-creditable immovable property tax is deductible for income tax purposes. Taxable urban land without buildings or vacant is subject to the property tax and to a 100% surcharge. Property located in urban expansion areas or in rural areas is exempt from the surcharge. In certain cases (subdivision of land, total demolition following destruction due to causes of which the proprietor or dweller is not responsible) a 10-year holiday may be granted.

6. International Aspects

6.1. *Resident companies*

Companies incorporated in Chile are generally treated as residents.

Companies and other legal entities incorporated abroad are treated as non-residents.

Permanent establishments in Chile of non-residents are treated as separate entities for income tax purposes (i.e. a permanent establishment under domestic legislation is subject to business income tax which is also granted as credit against the 35% withholding tax on remittances to the head office).

6.1.1. Foreign income and capital gains

Resident companies are chargeable to income tax (business income tax) on their worldwide income.

Foreign dividends and other profit distributions, capital gains, interest and royalties derived by resident companies are included in the business income tax taxable income.

Only after-tax foreign-source net income received is considered (excluding income that is not obtainable for reasons of force majeure, acts of God or legal provisions of the country of origin). This rule changes when a foreign tax credit is granted. In the case of permanent establishments located abroad, foreign-source income is computed on an accrual or received basis, including foreign taxes due or paid (under certain requirements, foreign tax credit is available). *See also* section 7.4. on CFC rules.

6.1.2. Foreign losses

Generally, only after-tax foreign-source net income is considered. Losses incurred by permanent establishments located abroad may be set off in the tax year in which they are incurred, but may not be carried forward to later years.

6.1.3. Foreign capital

In general, foreign capital is not taxed in Chile. The municipal licence is generally calculated as a percentage of capital, as declared by the taxpayer or registered in the balance sheet, which may lead to the conclusion that foreign capital declared or registered is also taxed. On the other hand, the local feature of municipalities, as defined by the Constitution and other legislation, offers grounds for the idea that a municipality cannot levy taxes on activities located in other municipalities, let aside on activities located in other countries.

Foreign-situs immovable property is not subject to immovable property tax in Chile.

6.1.4. Double taxation relief

Chile generally grants unilateral relief using the credit method to prevent double taxation of foreign-source income. The credit is granted with respect to foreign dividends or profit distributions, royalties and technical assistance fees received, services qualified as exports by Custom Service, on income accrued or remitted by permanent establishments located abroad and income subject to CFC rules. In respect of other income, the foreign tax may only be deducted from the foreign-source income.

The credit is generally limited to the lesser of the business income tax calculated (according to a specific formula) on the foreign-source income or the foreign tax effectively paid.

In respect of taxes paid on dividends and profit distributions, the credit equal to the lesser of a 32% credit limit calculated (according to a specific formula) on the foreign-source net income derived by the taxpayer in the tax period or the foreign tax effectively paid.

With respect to dividends and profit distributions, an underlying tax credit is granted. Furthermore, the income tax paid by companies on the profits distributed to the company that remits such profits to Chile may also be credited (indirect foreign tax credit), provided that at least 10% of the capital of the first-mentioned companies is directly or indirectly owned by the company remitting the profits. Under amendments introduced by Law 20,899 of 2016, the indirect foreign tax credit is also granted in case that companies making the distribution to the company that remits such profits to Chile are resident in a different country, provided this country has a tax treaty or exchanges information with Chile.

The foreign tax credit can be carried forward. There is no carry-back of the foreign tax credit.

The ordinary credit method is generally also used in comprehensive tax treaties concluded by Chile. In this case, a credit is granted for an amount which is the lesser of the foreign tax effectively paid or a 35% credit limit calculated (according to a specific formula) on the foreign-source income with respect to all income referred to in the tax treaty. For the list of tax treaties in force, *see* section 6.3.5.

6.2. *Non-resident companies*

There is no express definition of non-resident companies (*see* section 6.1.). Generally, companies that are not considered to be resident are treated as non-resident companies.

Non-residents are subject to non-resident income tax on their Chilean-source income. In general, Chilean-source income is income from assets located in Chile or activities carried out therein. However, the concept of Chilean-source income also covers gains from the indirect disposal of Chilean assets made between non-residents, under very specific conditions (*see* section 7.5.2.).

The following assets are deemed to be located in Chile:

- shares or participation rights in companies incorporated in Chile; and
- bonds and other private or public debt instruments issued in Chile by resident taxpayers (Law 20,780).

In addition, interest is deemed to arise in Chile:

- where the debtor is domiciled in Chile; or
- in case of debt instruments contracted or issued by a permanent establishment located abroad, where the head office is in Chile (Law 20,780).

6.2.1. Taxes on income and capital gains

Permanent establishments of non-residents

Permanent establishments in Chile of non-residents are treated as separate entities for income tax purposes.

The law does not define "permanent establishment", but according to Circular 57/2017 of the tax administration, for the purposes of tax registration, the term is defined in a broad manner, including agencies, branches and other types of subunits. However, if a tax treaty is applicable, the concept of permanent establishment will be in line with the treaty provision.

A permanent establishment (PE) of a non-resident person operating in Chile is subject to income tax on its worldwide income (previously, PEs were subject to tax only on Chilean-source income). Only the income originating from activities of the PE, or from assets assigned to, or used by, the PE, is attributed to the PE.

The PE's results are determined based on a balance sheet and complete accounting records.

The PE is considered as an enterprise fully separated and independent from its head office in respect of transactions made with it, with PEs thereof, with enterprises related to the head office or with other independent parties. However, some specific rules apply, e.g. in case of banks that are not incorporated as Chilean companies, the tax administration may disallow, as deductible interest, non-arm's length amounts paid or due by the PE to its foreign head office (this is also applicable to commissions or any other payments relating to financial activities).

Income is generally subject to business income tax under general rules and to non-resident income tax on remittances abroad at the general rate (except with respect to interest, *see* below). The business income tax paid is credited against the non-resident income tax. These permanent establishments are also subject to the municipal licence.

Non-residents without a permanent establishment

Non-residents without a permanent establishment in Chile are subject to non-resident income tax on Chilean-source income. The tax is generally levied as a final withholding income tax at the general rate of 35% on the gross amount derived (*impuesto adicional*). There are various specific non-resident income tax rates, depending on the type of income (*see* section 6.3.).

The business income tax previously paid with respect to the income, if any, is credited against the non-resident income tax. In this case, to calculate the non-resident income tax, an amount equivalent to the business income tax paid corresponding to the income distributed or remitted is included in the tax base and the income is thus grossed up. The rate of non-resident income tax is applied on the grossed-up income and the business income tax may be deducted from the tax due as a credit (*see* section 1.1.).

Income derived by non-residents from immovable property situated in Chile is generally subject to business income tax under the same rules applicable to residents. The income is also subject to non-resident income tax at the general rate with a credit for the business income tax paid.

Capital gains derived by non-residents are generally subject to tax under the rules discussed in sections 1.4. and 1.7.

Dividends distributed by Chilean joint-stock companies to non-resident taxpayers (legal entities or individuals) are subject to non-resident income tax. Depending on the taxation system of the distributing company (*see* section 1.1.), the shareholders are taxed upon accrual, i.e. irrespective of actual distribution (for distributing companies under the attributable income system), or on receipt (for distributing companies under the partial credit imputation system). A credit is granted, which is calculated by applying to the dividend the rate at which the underlying business income tax was paid. However, a full credit is granted only in case shareholders are resident in a country with which Chile has signed a tax treaty. Otherwise, the credit is limited to 65%. For dividends derived by residents, *see* section 2.2.

Interest derived by non-residents is subject to withholding tax (non-resident income tax) at the general rate on the gross amount derived. However, in case of certain interest that fulfils the requirements defined by law, the non-resident income tax rate is levied at a reduced rate or the interest is exempt from tax.

Royalties derived by non-residents are subject to non-resident income tax (for specific rates, *see* section 6.3.3.).

6.2.2. Taxes on capital

Non-resident companies are subject to immovable property tax (*see* section 5.2.) in respect of their immovable property located in Chile.

6.2.3. Administration

Non-resident taxpayers with a permanent establishment in Chile must file an annual income tax return and self-assess their own income tax liability. They must generally appoint a legal representative in Chile, obtain a tax identification number (RUT) and make a sworn statement to the SII with respect to the start-up of a business.

Non-resident companies without a permanent establishment in Chile, but deriving Chilean-source income, are generally subject to final withholding taxes.

See also section 1.8.

6.3. *Withholding taxes on payments to non-resident companies*

Chilean-source income derived by non-residents without a permanent establishment in Chile is generally subject to a final withholding tax at the rate of 35% on the gross amount. However, different rates apply, depending on the type of income.

For reduced rates under tax treaties, *see* section 6.3.5.

6.3.1. Dividends

Dividends distributed by Chilean joint-stock companies to non-resident taxpayers (legal entities or individuals) are subject to non-resident income tax at the rate of 35% (a credit for the underlying business profit tax paid is, however, applicable – *see* section 6.2.1.). This tax is withheld at source, and is a final taxation.

6.3.2. Interest

Interest derived by non-residents is normally subject to final non-resident income tax at the general rate on the gross amount. Nevertheless, the following special rules apply:

- interest paid to foreign or international banks or to foreign or international financing institutions by a financial institution incorporated in Chile is exempt from income tax, provided the credit on which the interest is paid is used to grant loans abroad;
- the following categories of interest are subject to a rate of 4% on the gross amount:
  - interest paid on current accounts and term deposits placed with an authorized institution;
  - interest on loans granted by authorized foreign or international banks or financial institutions;
  - interest to finance imports;
  - interest on Chilean or foreign-currency bonds issued by Chilean companies;
  - interest on Chilean or foreign-currency bonds issued by the state and the central bank; and
  - interest on Latin American Banking Acceptances (*ALADI Ablas*).

However, according to the thin capitalization rules, interest paid in excess of the allowed ratio is taxed at the higher rate of 35% (for thin capitalization provisions, *see* section 7.3.).

6.3.3. Royalties

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of trademarks, patents, formulas and other similar assets are subject to withholding tax (non-resident income tax) at the rate of 30% on the gross amount.

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of discovery patents, utility models, industrial drawings and designs, sketches (*esquemas de trazado*) or topographies of integrated circuits and new vegetal varieties are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount.

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of software (computer programs) are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount. However, payments made for the following software are not subject to tax:

- basic programs, which are defined as those indispensable for the functioning of the equipment or machine without which it cannot operate as such; and
- shrink-wrap software, the transferred rights of which are limited to the use of the program, and not its commercial exploitation, its reproduction or modification made for any purpose other than its use (Law 20,630).

However, in respect of the two previous paragraphs, the rate is 30% if the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list or qualifies as a preferential tax jurisdiction according to certain general criteria provided by the legislation (*see* section 7.5.1.).

Payments to foreign producers or distributors for material to be shown in cinemas or in television broadcasts are subject to withholding tax (non-resident income tax) at the rate of 20% on the gross amount.

Payments for the use of copyright or authors' rights are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount.

6.3.4. Other

Income from services supplied abroad is generally subject to withholding tax (non-resident income tax) at the rate of 35% on the gross amount. However, payments made abroad are exempt in the case of freight services, loading and unloading charges, storage, weigh-in, product sampling and analysis, insurance and reinsurance operations, commissions, international telecommunications and for smelting, refining, and other special treatments of Chilean products. The exemption a lso applies to amounts paid for advertising and promotion, market analysis, scientific and technological research, legal advice, and legal defence before the administrative, arbitration or judicial authorities of the country in which the services are supplied, if these services are related to exportable goods and services and the amounts paid are considered reasonable by the IRS. Law No. 20,956 extended this exemption to payments abroad for engineering and technical works if they are related to exportable services qualified as exports by the National Custom Service.

Remuneration paid to non-residents for engineering and technical works or professional or technical works supplied through an advice, report or draft (*plano*), carried out in Chile or abroad, is subject to withholding tax at the rate of 15%. However, the rate is 20% if the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list or qualifies as a preferential tax jurisdiction according to certain general criteria provided by the legislation (*see* section 7.5.1.).

Premiums on insurance of any type, taken out with companies not established in Chile, for goods permanently located in the country or against the material loss of goods in Chile subject to temporary admission or in transit, as well as premiums on insurance for persons domiciled or resident in Chile, are subject to tax at the rate of 22% or at the rate of 2% in the case of reinsurance premiums.

Income is subject to a withholding tax at the rate of 5% when derived from maritime transport to and from Chilean ports supplied by foreign companies. Withholding tax at the rate of 20% applies to income from the rental, sub-rental, chartering, sub-chartering, usufruct or any other right to the use or temporary employment of foreign ships that are destined to or used for coastal services, or when the respective contracts allow or do not forbid the ship's use for coastal services.

Income from a rental contract, with or without a purchase option, for imported capital goods that are entitled to a deferral of payment of customs duties, is subject to withholding tax at the rate of 35% on the profit or interest arising from the operation, which, for this purpose, is legally assumed to amount to 5% of each instalment paid under the contract.

6.3.5. Withholding tax rates chart

The following chart contains the withholding tax rates that are applicable to interest and royalty payments by Chilean companies to non-residents under the tax treaties in force as at the date of review. Where, in a particular case, a treaty rate is higher than the domestic rate, the latter is applicable.

A reduced treaty rate may be applied at source if the appropriate residence certificate has been presented to the withholding agent making the payment.

With respect to dividends, tax treaties do not limit the application of the non-resident income tax (35%) payable in Chile, provided that the business income tax is creditable in computing the amount of the non-resident income tax. Therefore, the rates referred to in tax treaties concluded by Chile are only applicable in the case of dividends paid from the other country to Chile.

	Dividends		***Interest***	***Royalties***
	Individuals, companies	***Qualifying companies***[1]		
	(%)	***(%)***	***(%)***	***(%)***
Domestic Rates				
Companies:	35[2]	35[2]	0/4/35	0/15/20/30
Individuals:	35[2]	n/a	4/35	15/20/30
Treaty Rates				
Treaty With:				
Argentina	15	10	4/12/15[3,4]	3/10/15[5]
Australia	15	5[6]	5/10[7,8]	5/10[9,10]
Austria	15	15	5/15[7,11]	5/10[9,11]
Belgium	15	0[12]	4/5/10/15[13]	2/5/10[14]
Brazil	15	10	15	15
Canada	15	5/10[15]	10/15[16]	10/15[17]
China (People's Rep.)	10	10	4/10[7,18]	2/10[9]
Colombia	7	0	5/15[19]	10[20]

	Dividends		Interest	Royalties
	Individuals, companies	Qualifying companies[1]		
	(%)	(%)	(%)	(%)
Croatia	15	5[21]	5/15[19]	5/10[9]
Czech Republic	15	15	4/5/10/15[22]	5/10[9]
Denmark	15	5	5/15[23]	5/10/15[24]
Ecuador	15	5	5/15[25]	10/15[26]
France	15	15	5/10/15[27,28]	5/10[9,29]
Ireland	15	5[21]	5/15[27,30]	5/10[9,30]
Italy	10	5	4/5/10/15[31,32]	2/5/10[33]
Japan	0/15[34]	0/5[35]	4/10/15[36,37]	2/10[9,36]
Korea (Rep.)	10	5	5/10/15[38]	5/10/15[39]
Malaysia	15	5[21]	15[40]	10
Mexico	10	5[21]	5/10/15[41]	10/15[42]
New Zealand	15	15	10/15[19,43]	5/10[44]
Norway	15	5	5/15[45]	5/10/15[46]
Paraguay	10	10	10/15[19,47]	15[47]
Peru	15	10	15	10/15[48]
Poland	15	5[21]	5/15[49]	5/10/15[50]
Portugal	15	10	5/10/15[51,52]	5/10[9]
Russia	10	5	15	5/10[9]
South Africa	15	5	5/15[7]	10/15[9]
Spain	10	5[21]	5/15[27,53]	5/10[9,53]
Sweden	10	5[21]	5/15[19,54]	5/10[9,19,54]
Switzerland	15	15	5/15[27,55]	5/10[9,55]
Thailand	10	10	10/15[19]	10/15[56]
United Kingdom	15	5[21]	5/15[27,57]	5/10[9,57]

1. Unless stated otherwise, the rate generally applies with respect to participations of at least 25% of voting power or capital, as the case may be.
2. A credit for the underlying business profit tax paid is granted.
3. A The 4% rate applies on interest from a sale on credit paid by the purchaser of machinery and equipment to a beneficial owner that is the seller of the machinery and equipment and the 12% rate on interest derived from loans granted by banks and insurance companies and bonds or securities that are regularly and substantially traded on a recognised securities market.
4. A most favoured nation clause may be applicable with respect to interest.
5. The 3% rate applies to news-related royalties and the 10% rate applies to copyright royalties (other than royalties related to films or tapes), patents, trademarks, know-how, certain lease-related royalties and technical assistance.
6. The 5% rate applies with respect to participations of at least 10% of the voting power.
7. The lower rate applies to interest derived by financial institutions.
8. A most favoured nation clause may be applicable with respect to interest.
9. The lower rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment.
10. A most favoured nation clause may be applicable with respect to royalties.
11. A most favoured nation clause may be applicable with respect to interest and royalties.
12. The 0% rate applies with respect to participations of at least 10% of the capital.

13. The rates under the treaty are 5% and 15%. The 5% rate applies to interest from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a recognized securities market, and to interest in relation to sales on credit. However, by virtue of a most favoured nation clause, the rate for certain additional types of interest were reduced to 5% under the Australia-Chile treaty. In addition, as from 1 January 2017, the rates for certain types of interest are further reduced to 4% and 10% by way of the Chile-Japan treaty. For information on the types of interest that fall within these reductions, see the activation treaties Australia-Chile and Chile-Japan. Furthermore, under the Chile-Japan treaty, the general rate of 15% will be reduced to 10% from 1 January 2019.
14. The rates under the treaty are 5% and 10%. The 5% rate applies to equipment leasing. However, by virtue of a most favoured nation clause, the rate for equipment leasing is reduced to 2%. Under the Chile and Japan treaty, the rate for such royalties is 2%.
15. The rate under the treaty is 10%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to participations of at least 25% of voting power. Under the Chile-Mexico treaty, the rate for such dividends is 5%.
16. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10% with respect to the following types of interest:
    - loans granted by banks and insurance companies;
    - bonds or securities that are regularly and substantially traded on a recognized securities market; and
    - sale on credit paid by the purchaser of machinery and equipment to a beneficial owner that is the seller of the machinery and equipment.

    Under the Chile-Spain treaty, the rate for such interest is 5%. However, due to a restriction in the MFN clause, the rate cannot be reduced below 10%.
17. The general rate for royalties under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
18. A most favoured nation clause may be applicable with respect to interest.
19. The lower rate applies to interest derived by banks and insurance companies from certain transactions.
20. A most favoured nation clause may be applicable with respect to royalties.
21. The rate applies with respect to participations of at least 20% of voting power or capital, as the case may be.
22. The rates under the treaty are 5% and 15%. The 5% rate applies to interest derived from loans or credits granted by banks or insurance companies. However, by virtue of a most favoured nation clause, the rates are reduced to:
    (a) 4% for interest beneficially owned by paid to:
        (i) a bank,
        (ii) an insurance company,
        (iii) an enterprise carrying on a lending or finance business involving transactions where the enterprise is not associated with the debtor,
        (iv) an enterprise selling machinery or equipment on credit, or
        (v) any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50% of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50% of the assets of the enterprise consist of debt-claims against unrelated non-associated persons;
    (b) 5% for the types of interest listed under (i) and (ii) paid as part of an arrangement involving back-to-back loans or other arrangements that are economically equivalent and intended to have a similar effect;
    (c) 10% for the types of interest listed under (iii), (iv) and (v) paid as part of an arrangement involving back-to-back loans or other arrangements that are economically equivalent and intended to have a similar effect; and
    (d) 15% in all other cases.

    Under the Chile and Japan treaty, the rate for such interest is 4% and 10%.
23. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to certain types of interests:
    (a) interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty, the rate for such interest is 5%;
    (b) for all the other types of interest, *see* n. 12. Under the Chile-Spain treaty, the rate for such interest is 5%.

24. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
25. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to certain types of interests:
    (a) interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty, the rate for such interest is 5%;
    (b) for all the other types of interest, *see* n. 12. Under the Chile-Spain treaty, the rate for such interest is 5%.
26. The 10% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
27. The lower rate applies to interest from loans granted by banks and insurance companies, bonds or securities that are regularly and substantially traded on a recognized securities market, and to interest in relation to sales on credit.
28. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Australia and Chile treaty, the rate for such interest is 10%.
29. A most favoured nation clause may be applicable with respect to royalties.
30. A most favoured nation clause may be applicable with respect to interest and royalties.
31. The 5% rate applies to interest derived from loans granted by banks and insurance companies, bonds and securities regularly and substantially traded on a recognized securities market and qualifying sales on credit of machinery and equipment.
32. The rates under the treaty are 5% and 15%. However, by virtue of a most favoured nation clause, the rates are reduced to:
    (a) 4% for interest paid to a bank, an insurance company, a lending or finance business, an enterprise selling machinery or equipment on credit, or any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50% of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50% of the assets of the enterprise consist of debt-claims against unrelated persons, and
    (b) 10% for interest paid as part of an arrangement involving back-to-back loans, or other arrangements that are economically equivalent and intended to have a similar effect.

    Under the Chile and Japan treaty, the rate for such interest is 4% and 10%. Furthermore, under the Chile and Japan treaty, the general rate of 15% shall be reduced to 10% from 1 January 2019.
33. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. However, by virtue of a most favoured nation clause, the rate is reduced to 2% for such royalties. Under the Chile and Japan treaty, the rate for such royalties is 2%.
34. There is no withholding tax if the beneficial owner of the dividends is a pension fund, provided that such dividends are not derived from the carrying on of a business by such pension fund or through an associated enterprise.
35. 5% applies if the beneficial owner is a company that has owned directly, for the period of six months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting power in the dividend-paying company. There is no withholding tax if the beneficial owner of the dividends is a pension fund, provided that such dividends are not derived from the carrying on of a business by such pension fund or through an associated enterprise.
36. A most favoured nation clause may be applicable with respect to interest and royalties. The MFN clause states that if Chile concludes a convention with another state with a lower rate, the contracting states, at the request of Japan, shall consult with a view to amending the treaty in order to incorporate such lower rates.
37. A general rate of 15% applies up to 31 December 2018, and thereafter a general rate of 10% applies. The rate of 4% applies to interest paid to a bank, an insurance company, a lending or finance business, an enterprise selling machinery or equipment on credit, or any other enterprise, provided that in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50% of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50% of the assets of the enterprise consist of debt-claims against unrelated persons. Nevertheless, the rate of 10% applies (instead of 4%) if the interest is paid as part of an arrangement involving back-to-back loans, or other arrangements that are economically equivalent and intended to have a similar effect.

38. The rates under the treaty are 10% and 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to certain types of interest:
    (a) interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty, the rate for such interest is 5%;
    (b) for all the other types of interest, *see* n. 12. Under the Chile-Spain treaty, the rate for such interest is 5%.
39. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
40. A most favoured nation clause may be applicable with respect to interest.
41. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause , the rate is reduced to 5% for interest from loans granted by banks; also 5% for interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer and to 10% for interest from loans granted by insurance companies, from bonds or securities regularly and substantially traded on a recognized securities market, and for interest in relation to sales on credit of machinery and equipment. Under the Chile-Spain and Australia-Chile treaties, the rate for such interest is 5%. However, due to a restriction in the MFN clause, the rate for certain types of interest cannot be reduced below 10%.
42. The general rate for royalties under the treaty is 15%. However, by virtue of amost favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
43. A most favoured nation clause may be applicable with respect to interest.
44. The general rate under the treaty is 10%. However, by virtue of amost favoured nation clause the rate is reduced to 5% with respect to royalties which are paid for the use of, or the right to use, any industrial, scientific or commercial equipment. Under the Australia-New Zealand treaty, the rate is 5% for such royalties.
45. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to certain types of interest:
    (a) interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty, the rate for such interest is 5%;
    (b) for all the other types of interest, *see* n. 12. Under the Chile-Spain treaty, the rate for such interest is 5%.
46. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. The general rate under the treaty is 15%. However, by virtue of amost favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
47. A most favoured nation clause may be applicable with respect to interest and royalties.
48. The general rate for royalties under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 10%. Under the Chile-New Zealand treaty the rate is 10%.
49. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause, the rate is reduced to 5% with respect to certain types of interest:
    (a) interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty, the rate for such interest is 5%;
    (b) for all the other types of interest, *see* n. 12. Under the Chile-Spain treaty, the rate for such interest is 5%.
50. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. The general rate under the treaty is 15%. However, by virtue of amost favoured nation clause, the rate is reduced to 10%. Under the Chile-Spain treaty, the general rate is 10%.
51. The 5% rate applies to interest from bonds or securities regularly and substantially traded on a recognized securities market and the 10% rate to interest from loans granted by banks and insurance companies, and sales on credit of machinery and equipment where the beneficial owner is the seller.
52. A most favoured nation clause may be applicable with respect to interest.
53. A most favoured nation clause may be applicable with respect to interest and royalties.
54. A most favoured nation clause may be applicable with respect to interest and royalties.
55. A most favoured nation clause may be applicable with respect to interest and royalties.
56. The 10% rate applies to royalties from the use of, or the right to use, any copyright of literary, artistic or scientific work, or for the use of, or the right to use, industrial, commercial or scientific equipment.
57. A most favoured nation clause may be applicable with respect to interest and royalties.

7. Anti-Avoidance

7.1. *General*

Effective from 30 September 2015, general anti-avoidance rules (GAARs) are introduced by Law 20,780 of 2014, which are based on the “abuse of right” and the “contract simulation principles”. The GAARs are applicable to facts, acts or transactions, taking place as from that date. The tax administration must prove the avoidance or simulation in the relevant procedures. However, where there is a special anti-avoidance provision, that provision will prevail, e.g. provisions that allow the tax authority to assess prices or values of certain transactions.

The main features of these rules are as follows:

Tax obligations arise and are due in accordance with the legal nature of facts, acts or legal agreements, irrespective of the form or names given by interested parties. There is no taxpayer’s good faith when taxable events are avoided through juridical acts or transactions.

Taxable events cannot be avoided by abusing the legal forms. An abuse will be deemed to occur where:

- the taxable event is fully or partially avoided; or
- the taxable amount or the tax obligations are reduced or postponed;

by means of juridical acts or transactions that, individually or in the aggregate, produce no legal or economic results or effects of relevance for the taxpayer or for another person other than those of a tax nature.

The reasonable choice of conducts and alternative conducts contemplated in tax law is legitimate. Consequently, the result of a lower tax or deferred tax is not treated as an abuse, provided that these effects are consequences provided by the tax law.

There is also abuse in the form of simulated acts or transactions. In these cases, taxes must be levied on the facts effectively carried out by the parties, independently of the simulated acts or transactions. For tax purposes, there is “simulation” when legal acts and transactions dissimulate the taxable event or the elements of the tax obligation or its real amount or the date on which it arises.

The existence of abuse or simulation must be declared by the Tax and Customs Court upon request of the Commissioner of the tax administration. This request is limited to cases involving amounts exceeding 250 monthly tax units upon the date of the request. Before filing the request, the tax administration must notify the taxpayer and give him the opportunity to be heard in advance. The request to the court must be filed within 9 months following the taxpayer’s response or, if there is no response, within 9 months from the notification referred to. Exceptionally, where the remaining period of the statute of limitations for a tax audit is lower than 9 months, such request to the court must be filed within that remaining period. During the court proceedings, the course of the statute of limitations is suspended.

Under Law 20,899 of 2016, the GAARs are applicable to acts or transactions (or a group or series of acts or transactions) carried out or concluded after 30 September 2015. Therefore, acts or transactions concluded before that date may not be affected by the GAARs, this is the case where the features or elements of those acts or transactions, which determine a specific tax treatment, are established before that date, even if they continue to have tax effects afterwards. If features or elements of acts or transactions are modified after 30 September 2015, the GAARs apply only to the particular consequences of the modified acts or transactions.

7.2. *Transfer pricing*

Transfer pricing rules are applicable to:

- transactions between related parties;
- dealings between PEs and head offices or other PEs of the same enterprise; and
- business restructurings and company reorganizations that imply the transfer abroad of any title of assets and activities that could generate taxable income in Chile (before Law 20,780, the rules were applicable only in case of transfers of assets and activities to tax havens or low-tax jurisdictions).

The rules are based on the arm's length principle and cover definition of related parties, transfer pricing methods, studies, adjustments by the tax administration, report obligations, advanced price agreements (APAs) and corresponding adjustments.

The taxpayer has to substantiate to the satisfaction of the tax administration that its operations are carried on at arm's length. If this is not the case, the tax administration is empowered to make transfer pricing adjustments. The increase of the taxable base is subject to a final tax at the rate of 35%. In addition, a fine equal to 5% of the balance is imposed.

Arm's length principle: The prices, values or profitability of cross border transactions and reorganizations or restructures of enterprises entered into by residents with foreign related parties must be agreed upon under the arm's length principle.

Related parties are considered to constitute the following:

- if one person participates (directly or indirectly) in the management, control or capital of the other person;
- if the same person(s) participate(s) directly or indirectly in the management, control, capital, profits or receipts of two parties;
- a PE, with respect to its head office and other PEs of the same enterprise;
- parties in a transaction entered into with a party resident, established or constituted in a country or territory listed as a tax haven, unless such jurisdiction has a tax information exchange agreement with Chile;
- a party concluding transaction(s) with any third person, who concludes transaction(s), directly or indirectly, with a party who is related to the first one; and
- close relatives.

Transfer pricing methods. The following methods may be used by the taxpayers and the tax administration:

- Comparable Uncontrolled Price;
- Resale Price;
- Cost Plus;
- Profit Split;
- Comparable Profit Split; and
- Residual Methods.

The taxpayer must use the most appropriate method considering its particular case.

With respect to the deduction of expenses, royalty payments made to non-resident related parties are in general deductible up to 4% of receipts from sales or services. This limitation does not apply when those payments are subject to income tax in the country where the beneficiary is domiciled at a rate of at least 30%.

7.3. *Thin capitalization*

Effective from 1 January 2015, thin capitalization rules are governed by new article 41 F of the LIR.

Chilean income tax law contains specific thin capitalization provisions with respect to certain interest payments to non-resident related parties, i.e. interest from loans granted by foreign or international banks or financial institutions; interest to finance imports; and interest on Chilean or foreign-currency bonds issued by Chilean companies. For this purpose, related persons are specifically defined by the same provisions and include beneficiaries established or resident in countries or territories listed as tax havens.

Under domestic law, interest payments are subject to a withholding tax at the general rate of 35%; but various categories of interest are subject to a specific reduced rate of 4%. However, when the total annual debt/equity ratio exceeds the 3:1 threshold at the end of the taxable year, the excessive amount of interest is subject to final tax at the rate of 35% (i.e. the excessive interest amount is not recharacterized as dividends, but subject to a special tax). This is a tax levied on the resident or domiciled taxpayer that is the payer of the interest or similar payment.

The difference between the 4% withholding tax rate and the 35% tax rate, on the interest paid in excess of the threshold, is payable by the debtor and is deductible from his taxable income.

Thin capitalization rates are generally not applicable to banks, insurance companies, credit card companies and other financial entities authorized to operate by law and subject to the supervision of the Supervisor of Banks and Financial Institutions, Supervisor of Securities and Insurances or the Supervisor of Social Security.

According to Law 20,899 of 2016:

- the taxable base of the 35% tax includes the (i) interest that was subject to the 4% rate; and (ii) the interest that was subject to any rate lower than 35% or that was exempt from tax, under specific domestic law or a tax treaty in force;
- for the calculation of the debt/equity ratio, the total annual debt excludes the debt contracted with non-related parties for a maturity period of 90 days or less; and
- financial entities qualified as such by the Ministry of Finance are excluded from the scope of the thin capitalization rules, provided that, inter alia, at least 90% of the assets of such entities are loans granted to non-related persons for at least 330 days (which will be determined at the end of each commercial year); and debts with related and non-related parties do not exceed 120% of the total loans during the commercial year.

The thin capitalization rules do not apply to income paid or remitted by financial entities approved by the Ministry of Finance or to multilateral international financial bodies.

7.4. *Controlled foreign company*

Law 20,780 of 2014 introduced CFC legislation (article 41 G of the LIR) effective from 1 January 2016. Main features of these provisions, as amended by Law 20,899 of 2016, are as follows:

Resident companies or individuals are deemed to have received or accrued passive income derived by a foreign controlled entity.

The net passive income (excluding losses) is deemed to be received or accrued at the end of the tax period in proportion to the participation's rights and then it is subject to the business income tax.

If the passive income derived by the foreign controlled entity is more than 80% of its total profits, 100% profits are deemed to be passive income.

Taxpayers are granted the foreign tax credit for the foreign taxes paid or due with respect to the passive income under the general rules (which distinguish whether a tax treaty is applicable).

The CFC rules do not apply if:

- the passive income is less than 10% of the total profits;
- the value of the assets of the foreign controlled entity that may generate passive income do not exceed 20% of the total value of its assets; or
- the passive income of the controlled entity was subject to income tax at an effective rate of at least 30% in the country of domicile, the country of incorporation or where the entity is established.

Passive income includes: dividends and other profit distributions; interest; royalties and similar income; rents from immovable property; and capital gains from immovable property and from rights that generate passive income (certain exceptions apply).

The expression "resident companies or individuals" includes any entities and "patrimonies of affectation" constituted, domiciled or established in Chile.

A foreign controlled entity is any entity or "patrimony of affectation" that:

- is not resident, domiciled, or established in Chile (excluding foreign permanent establishments of resident enterprises); and
- is directly or indirectly controlled by entities, individuals or patrimonies resident, domiciled or constituted in Chile as follows:
  - they owned or controlled more than 50% of the foreign entity's capital, profits or voting power;
  - they have the power to elect the majority of directors or administrators of the foreign entity; or
  - they have the unilateral power to amend the foreign entity's by-laws, or to change the majority of its directors or administrators.

In addition, a foreign controlled entity is also an entity controlled by a foreign controlled entity as described in the previous paragraph.

A foreign entity is deemed to be a "foreign controlled entity" (legal presumption) where:

- it is resident, domiciled or established in a low-tax jurisdiction as defined in article 41 H of the LIR; or
- a resident company or individual has directly or indirectly a purchase option with respect to the foreign entity for 50% or more of its capital, profits or voting power.

If an entity is resident, domiciled or established in a low-tax jurisdiction, the entity is also presumed to derive net passive income, and additional information requirements are applicable.

Under article 41 H of the LIR, a preferential tax jurisdiction is a jurisdiction (excluding OECD member countries) that satisfies two of the following conditions:

- it has an effective tax rate on foreign-source income lower than 17.5%;
- it does not have an exchange of information agreement with Chile;
- it does not have transfer pricing legislation that allows its tax authorities to determine transfer pricing based on the guidance from the OECD or the UN;
- it has preferential regimes which is inconsistent with the standards of the OECD;
- it has a territorial system of taxation; or
- it is not considered compliant or largely compliant with the international standards on transparency and exchange of information by the OECD.

7.5. *Other anti-avoidance rules*

7.5.1. Low-tax jurisdictions

The Finance Ministry provides a list of countries considered tax havens or low-tax jurisdictions and article 41H of the income tax law also provides for criteria to qualify as a preferential tax jurisdiction (*see* section 7.4.). Various provisions apply and others are restricted with respect to taxpayers carrying out transactions with countries that appear on this list, including the following (*see also* sections 6.3.3. and 6.3.4.):

- according to "the business platform regime" (for this special offshore company regime, *see* section 1.7.5.), which enables foreign investors to set up a platform company in Chile for channelling and managing investments in third countries without having to pay Chilean tax on income from these overseas investments, (i) shareholders holding at least 10% of the capital or profits of business platform companies must not be residents of countries included on the list; and (ii) business platform companies may provide services to subsidiaries and associated companies, provided they are not located in countries included on the list;
- with respect to the application of the *transfer pricing provisions* (*see* section 7.2.), parties are presumed to be related when resident enterprises carry out transactions with enterprises incorporated in the countries included on the list or with preferential tax jurisdictions that qualify under article 41H;
- certain *withholding tax rates increase* if the non-resident is resident of a listed tax haven or qualifies as a preferential tax jurisdiction under the general criteria of article 41H (*see* sections 6.3.3. and 6.3.4.);
- under *CFC rules* there are certain legal presumptions of "control" and "passive income" applicable to entities resident in preferential tax jurisdictions under the general criteria of article 41H or included in the list of tax havens;
- in the application of the *thin capitalization provisions* (*see* section 7.3.), parties are considered to be related if the financial transaction is carried out with persons

resident or domiciled in the countries included on the list or with preferential tax jurisdictions that qualifies under article 41H; and

- non-residents trading in shares of joint-stock companies, whether or not quoted on a Chilean stock exchange, may obtain the tax registration number (RUT) necessary to carry out these transactions from an institution acting as an intermediary or from a Chilean stockbroker (withholding agent), but foreign investors are not eligible for this benefit if their country of residence is included on the list.

7.5.2. Other anti-avoidance provisions

Income from the alienation of shares, corporate rights or other rights representing the capital of a legal entity established abroad, which derives their value directly or indirectly from underlying assets located in Chile (e.g. participations in resident entities, movable or immovable property in Chile), where certain specific conditions and thresholds are met, is considered Chilean-source income. This income is subject to a withholding tax at the rate of 35%.

Certain non-deductible amounts must be added to the net income of a company that pays its tax on actual income and are deemed to be distributed at the end of a tax period. These amounts include: withdrawals in kind; amounts representing cash disbursements not corresponding to the value or cost of assets, loans made by limited liability companies to their individual partners or to non-resident taxpayers; and, in the case of the use or enjoyment of assets belonging to the company by the partner, his spouse, his dependent children or a shareholder, an amount equal to a percentage of the asset's value.

8. Value Added Tax

8.1. *General*

VAT is levied on domestic taxable supplies of movable property, immovable property (excluding land), and services made by a taxable person, as well as on imports of goods. Exports of goods and some services are zero-rated. Some specified transactions are exempt without credit for previously paid VAT.

VAT applies to all stages of production and distribution processes.

8.2. *Taxable persons*

Taxable persons are: persons habitually engaged in selling movable property and immovable property (excluding land); persons furnishing services, habitually or otherwise; and in general persons carrying out transactions subject to VAT, including construction enterprises, importers, whether importing on an habitual basis or not, beneficiaries of services when the person that rendered them is a non-resident, etc.

VAT also applies to public institutions, semi-public institutions, autonomous state institutions, local councils, and to companies that belong to these entities, or in which they have a stake.

8.3. *Taxable events*

Taxable transactions are, in general, sales, services and imports. Sales are transactions for consideration involving the transfer of tangible goods, immovable property (excluding land) or the transfer of rights with respect to those goods, provided that the vendor perfoms this type of operations on a regular basis. Services are those provided for consideration, furnished in the exercise of business activities, and rendered or used in Chile. Imports are taxable transactions, whether habitual or otherwise.

Other specific taxable transactions include contributions of tangible goods to a company by persons habitually engaged in the sale of similar goods and transactions with respect to the use or the right to use trademarks, patents, know-how and similar transactions.

8.4. *Taxable amount*

In general, the taxable amount is the total consideration charged, including:

- amounts derived from the indexation of debts for inflation, interest and financing expenses of sales on credit, including interest for arrears accrued or collected in the tax period;
- the value of containers and deposits made to secure their restitution, unless the tax administration, in special cases, permits their exclusion; and
- taxes, excluding VAT and other similar taxes.

In computing the tax liability, input VAT may be credited against output VAT, so that in practice only the value added to the taxpayer's supplies is taxed.

With respect to imports, the taxable amount is the customs or c.i.f. value plus customs duties.

Regarding immovable property, the taxable amount is the total consideration charged minus the total amount, or the corresponding proportion of the acquisition value of the land included in the transaction.

8.5. *Rates*

VAT is levied at a single rate of 19%.

8.6. *Exemptions*

Exports of goods and services are zero-rated. Services rendered in Chile to non-residents are treated as exports of services, provided they are characterized as such by the customs authorities. In addition, some persons are treated as exporters and thus have a right to obtain a refund of the VAT invoiced to them, e.g. taxpayers carrying out international transport and related activities; services rendered and used abroad under certain conditions; hotel enterprises providing services to foreign tourism, certain port enterprises; certain enterprises and scientific organizations in respect to trips to the Antarctic; enterprises not established in Chile that exploit fishing boats or factory ships, etc.

Exempt transactions without deduction for previously paid VAT include:

- interest originating from financial transactions and documents, inclusive of commissions corresponding to endorsements or bails granted by financial institutions, except for interest originating from instalment sales;
- premiums in the case of life insurance, insurance covering risks from earthquakes and insurance covering transportation risks for imports and exports, ships, risks for foreign-situs goods, and reinsurance, and insurance paid by Chilean commercial airlines;
- news services rendered by news agencies;
- imports by investors or other persons, as defined by the law for direct foreign investment, of capital good destined to specific projects, provided:
    - the investment amounts to USD 5 million or more;

  - the project generates taxable, non-taxable or exempt receipts after 12 months as from the import, acquisition or other specific events; and
  - the investor requests the exemption to the Ministry of Finance;
- goods imported by specific governmental entities, foreign embassies and consulates, and other specific entities (e.g. specific imports by the fire brigade);
- Chilean raw materials used with the approval of the tax administration to produce products that will be exported;
- transport of passengers provided by transportation enterprises;
- earnings of professionals, self-employed workers and directors of corporations;
- receipts not considered income or representing items of income specifically subject to non-resident income tax (e.g. royalties, payments for technical services or for services rendered abroad, insurance premiums);
- receipts in foreign currency derived by hotel enterprises registered with the tax administration for services rendered to foreign tourists in Chile;
- commissions charged for the administration of voluntary pension contributions and deposits in authorized voluntary pension saving schemes;
- sales or transfers of immovable property concluded before 1 January 2016, or for which a corresponding legal promise was entered into before that date;
- sales or transfers of immovable property through leasing agreements with purchase option concluded before 1 January 2016, and instalments paid under such lease contract;
- sales of immovable property where the building permit was granted before 1 January 2016 and the transaction was concluded before 1 January 2017;
- sales of immovable property (including sales through lease agreements), where the construction project was granted before 1 January 2016 and municipal approval of the building is requested before 1 April 2017. This exemption applies only to the first sale to a person that is not habitually engaged in the sale of immovable property; and
- sales of dwellings to the beneficiaries of government subsidies granted for this purpose, including constructions contracts and leasing contracts with purchase option that were financed by the subsidies.

8.7. *Non-residents*

No refund scheme is available for non-resident persons.

9. Miscellaneous Taxes

9.1. *Capital duty*

No capital duty is levied in Chile upon the formation of companies or expansion of capital.

9.2. *Transfer tax*

9.2.1. Immovable property

There is no transfer tax in Chile with respect to the transfer of immovable property. For the taxation of capital gains, *see* section 1.4.

9.2.2. Shares, bonds and other securities

There is no transfer tax in Chile with respect to the transfer of securities. For the taxation of capital gains, *see* sections 1.4. and 1.7.

9.3. *Stamp duty*

Stamp duty (*impuesto de timbres y estampillas*) is imposed on certain specified acts. It has a limited scope and is basically applied only with respect to documents representing a debt claim (e.g. bills of exchange or promissory notes). The taxable base is the amount of the capital specified in the document. The tax rate varies depending on the period of the loan.

The rate is 0.066% from 1 January 2016 of the value of the document for each month of the loan's term, up to a maximum of 0.8%.

In respect of documents representing debt-claim transactions without maturity, i.e. payable on sight (e.g. bank credit lines), the tax rate is 0.332% of their value from 1 January 2016.

9.4. *Customs duty*

Customs duties are levied on the customs value of imports (determined on the basis of the agreement concerning the application of the GATT Art. VII of 1994 and including transfer expenses and insurance) at the general rate of 6%. Free trade and complementary economic agreements contain reduced tariff rates. There are no export duties.

9.5. *Excise duty*

In addition to VAT, excise or sales taxes apply on the sale and/or importation of specific goods. The taxable base is the same as for VAT purposes. The following examples of taxable goods and the related tax rates can be given:

- alcoholic and non-alcoholic beverages and similar goods, whether sold or imported habitually or otherwise, are subject to tax at various rates, i.e. from 10% to 31.5%, depending on the alcohol content (article 42 of the VAT Law as amended by Law 20,780). Previously, the tax rates varied from 13% to 27%; and
- luxury goods (e.g. gold, platinum, ivory, jewels, etc.) are subject to tax at a rate of 15% (depending on the product, the tax may be applicable only to the first sale or import, or also to subsequent transactions).

Excise duties may also apply on a taxable base that is calculated under specific formulas, such as:

- tobacco is subject to tax at different rates depending on the product, i.e. cigars: 52.6% on the selling price to the consumer; cigarettes: 0,0010304240 monthly tax units per cigarette plus 30% on sale price to customer inclusive of taxes; and processed tobacco: 59.7% on the selling price to the consumer (articles 3 to 5 of Decree Law 828 of 1974 as amended by Law 20,780);
- a fuel tax is levied on the first sale or import of automobile gasoline and diesel. Biodiesel and bioethanol are not subject to this specific tax; and
- new motor vehicles, and small and medium-sized motor vehicles are subject to a single additional tax denominated in UTMs which is calculated under specific formulas (in addition to VAT).

CHILE

This chapter is based on information available up to 1 January 2018.

Introduction

Individuals are subject to income tax. An inheritance and gift tax is also levied. There is no individual net wealth tax. Employees must make social security contributions.

The tax system is applicable throughout the entire Chilean territory.

The tax administration is the Servicio de Impuestos Internos (SII).

The currency is the peso (CLP).

Chilean tax system provides a comprehensive system of monetary adjustments to offset the effects of inflation.

The "monthly tax unit" is a tax adjustment index and its value is adjusted monthly by the tax administration in accordance with inflation. The "annual tax unit" is equal to 12 monthly tax units. The "tax unit" is used, inter alia, to determine certain applicable tax rates, in some cases whether or not the income or gain is taxable, and the amount of fines.

On 29 September 2014, Law 20,780 was published in the Official Gazette. The law provides for a structural reform of the tax system of the country with different effective dates over a 4-year period. Law 20,780 provides, inter alia, a new income tax regime effective from 2017, which is considered the most relevant tax reform over the last 30 years (*see* Corporate Taxation section 1.1.). On 8 February 2016, Law 20,899 was published in the Official Gazette introducing further amendments to the tax system, including also the new income tax regime. Several regulations and administrative interpretation concerning this law have been published. In this survey, amendments introduced by Law 20,780, Law 20,899 and Law 20,956 are reflected as they become effective.

1. Individual Income Tax

1.1. *Taxable persons*

Residents and persons domiciled in Chile are subject to income tax. Residents are individuals present in Chile for more than 6 months in either one calendar year or in 2 consecutive calendar years. Domiciled persons are individuals that have the intention to stay in Chile on a permanent basis, which can be assumed from the person's circumstances (e.g. employment contract, the person's family residence, children's school, etc.).

Estates of deceased persons may be considered taxable persons for 3 calendar years.

With respect to married couples, in general each spouse must submit a tax return separately, reporting their own income. However, married couples may be required to file a joint income tax return, e.g. where they have joint ownership of their property or a spouse administers the goods of the other.

Generally, there are no fiscally transparent persons in Chile.

1.2. *Taxable income*

1.2.1. General

Residents or domiciled persons are liable to income tax on their worldwide income.

Non-residents or non-domiciled individuals are liable to income tax only on their Chilean-source income. Foreigners that establish domicile or residence in Chile are liable to income tax only on their Chilean-source income during the first 3 years in the country (this period may be extended by the tax administration in special cases). In general, Chilean-source income is income from assets located in Chile or activities carried out therein.

Income tax is assessed according to a schedular system, based on the nature of its source:

- business income tax (*impuesto de primera categoría*) is levied on business income under the rules described in Corporate Taxation;
- employment income tax (*impuesto de segunda categoría*) is levied on employment income (*see* section 1.3.);
- individual income tax (*impuesto global complementario*) is levied on the total taxable income derived by individuals resident or domiciled in Chile, including income liable to business income tax or employment income tax, at progressive marginal rates (*see* section 1.9.). Business income tax and employment income tax may be creditable against the individual income tax (*see* section 1.1.);
- non-resident income tax (*impuesto adicional*) is levied on Chilean-source income derived by persons who are non-residents and are not domiciled in Chile, generally when the income is made available.

1.2.2. Exempt income

Income tax law provides that some receipts (*ingresos no renta*) are not considered to be income for tax purposes and thus are not subject to income tax and are not included in tax returns. These exempt items of income include:

- indemnity payments received for effective material damages, and for non-material damages declared by the Courts;
- compensations between spouses established in a public deed or agreement concluded before a Court or by a Court decision;
- compensation received under labour legislation;
- the distribution of profits and of accumulated reserves by joint-stock companies to their shareholders in the form of stock dividends, or any increase in the par value of the shares realized by capitalization of the company's profits or reserves;
- dividends paid by joint-stock companies out of profits not considered to be taxable income;
- the refund of capital by Chilean companies and revaluations thereof authorized by law, provided that the revaluations do not pertain to capitalized profits subject to income tax upon distribution;
- the repatriation of capital invested abroad. In the case that the investment was not timely registered with the tax administration, the amount of the capital must be evidenced with the relevant documentation;
- pensions from foreign sources;
- up to 31 December 2016 capital gains from the alienation of immovable property derived by persons that are not subject to business income tax on actual income, provided that the property has been held for more than 1 year and the transaction is not habitual or between related parties. As from 1 January 2017, capital gains from the alienation of immovable property located in Chile and acquired after 1 January 2004, obtained by individuals that are not taxpayers of business income tax

on actual income, are not considered income for income tax purposes up to 8,000 indexed units (*unidades de fomento*, UF), provided that certain specific requirements are met. Any capital gains above the 8,000 UF is taxable with the individual income tax or by a 10% final tax upon taxpayer´s choice (when the taxpayer is resident or domiciled in Chile); or to the non-resident income tax when the taxpayer is not resident or domiciled in Chile. The 8,000 UF is determined per each individual during his entire life (not per alienation). For capital gains arising from the alienation of immovable property acquired before 1 January 2004, not being considered income for income tax purposes, legislation existing prior Law 20,780 applies;

- capital gains from the alienation of shares acquired before 31 January 1984;
- other capital gains from the alienation of shares and securities (*see* Corporate Taxation sections 1.4. and 1.7.);
- rents derived from non-luxury residences not exceeding 140 square metres, constructed under Decree with Force of Law 2 of 1959 are excluded from any income taxation under certain conditions. The same applies to rents from leasing with a purchase option, provided that the house has not been constructed by the lessor; and
- capital gains from the alienation of shares when derived by persons that are not subject to business income tax on actual net income, provided that the gains do not exceed 10 annual tax units and the transaction does not take place between related parties.

With respect to exempt income, various exemptions are generally granted to employees and other taxpayers in respect of Chilean-source income, provided that the recipient has no other income or activity. These exemptions include:

- income from movable capital (e.g. interest) is exempt from individual income tax, provided that it does not exceed, in the aggregate, 20 monthly tax units;
- capital gains derived from the alienation of shares in joint-stock companies are exempt from business income tax and individual income tax, provided that they do not exceed, in the aggregate, 20 monthly tax units;
- up to 31 December 2016, capital gains from the alienation of shares when derived by persons that are not subject to business income tax on actual net income, provided that the gains did not exceed 10 monthly tax units and 10 annual tax units. As from 1 January 2017, provided that certain requirements are met, capital gains are not considered income for income tax purposes; and
- capital gains derived from the redemption of shares in mutual funds are exempt from individual income tax, provided that they do not exceed 30 monthly tax units.

Exempt income is included in taxable income for determining the applicable progressive tax rates.

In addition, there is a deferral of income tax on capital gains from the redemption of interests ("units") in mutual funds. Such redemption is not considered a "redemption", and thus is not taxable if the interests in the mutual fund are sold to reinvest the proceeds in other mutual funds administered by the same or a different managing company.

1.3. *Employment income*

1.3.1. Salary

Employment income derived by residents or domiciled individuals is subject to the employment income tax (second category tax). This tax is levied at the same progressive income tax rates as the individual income tax (thus employment income and income from the provision of independent personal services are taxed at the same level).

Employment income includes all items of income from dependent personal services (i.e. salaries, wages and other remuneration).

There are no deductions for costs directly related to employment income (e.g. commuting costs or moving costs).

Employment income is subject to monthly withholding tax. The tax is final unless the employee has other income, in which case employment income is included in the individual income tax taxable base (*see* section 1.9.2.).

1.3.2. Benefits in kind

Benefits in kind are taxable income.

1.3.3. Pension income

Pensions are taxable income.

Pension contributions are deductible in the computation of the employee's income tax.

See also sections 1.7., 3. and 6.1.1.

1.3.4. Directors' remuneration

Fees and other remuneration earned by residents in their capacity as a member of a board of directors or other advisory body are subject to individual income tax.

This income is subject to monthly withholding tax (*see* section 1.9.2.).

1.4. *Business and professional income*

Income from independent professional activities or any other personal activities carried on by residents is subject to individual income tax on net income. Expenses deemed necessary to generate the income and voluntary pension contributions (up to certain limit) are generally deductible. Alternatively, taxpayers may choose to deduct 30% of gross income as notional expenses.

A withholding tax or a prepayment, both creditable against the final liability, is levied on this income at a rate of 10%.

Business income derived by individuals or sole proprietorships is generally subject to business income tax according to the rules described in Corporate Taxation section 1.3. The same income is subject to individual income tax (on accrual or distribution, depending on the system chosen for business income tax purposes – *see* section 1.5.1.) with credit (total or partial, depending on the system – *see* section 1.5.1.) for the business income tax to avoid economic double taxation.

There is a simplified income tax regime for small taxpayers, i.e. micro, small and medium-sized companies, provided by article 14 ter of the Income Tax Law (LIR) as amended by Law 20,780. Taxpayers that were subject to other income tax regimes on

31 December 2014 (i.e. regimes provided by articles 14 bis or 14 quarter LIR) could opt to continue to be taxed under those regimes until 31 December 2016. Effective 1 January 2017, a new special regime will be effective under a new article 14 ter of the LIR. Under the regime the taxpayer is basically subject to ordinary income tax on the surplus of receipts over disbursements based on his records and invoices.

There is also a simplified income tax regime on presumptive income for small agricultural, land transport or mining businesses. For this purpose, annual sales or gross receipts must not exceed specific legal thresholds. The tax base is a percentage of the value of the immovable properties, vehicles or annual net sales of mining products. Under Law 20,899, businesses may only be subject to this regime when they are formed exclusively by individuals during the time the regime is applicable.

Companies formed by professionals performing exclusively professional services or consultancy may choose, within the first 3 months of the commercial year, to report their income under business income tax rules. Once made, the election is irrevocable. This option permits and is used (under general rules) to postpone taxation until income withdrawal. Effective from 2017, this will depend on the type of income tax regime chosen (*see* Corporate Taxation section 1.1.).

1.5. *Investment income*

Investment income derived by resident or domiciled individuals is generally subject to individual income tax.

Under Law 20,780 of 2014, interest, dividends and other income derived from term deposits, savings accounts, mutual funds quotas and other financial instruments, as determined by the Ministry of Finance, issued by entities subject to control by specific governmental entities (e.g. Supervisor of Banks and Financial Institutions), will not be deemed to be derived by the individuals for individual income tax purposes until that income is "withdrawn" by the taxpayer, i.e. the income is not subject to individual income tax during the time it is saved or invested in these financial instruments. At any time the taxpayer may opt to renounce this benefit and then he must include the total amount of interest, dividends or other income pending of taxation in the taxable base of the individual income tax. The total amount saved or invested under this benefit may not exceed 100 annual tax units (*unidad tributaria anual* – UTA) per year (article 54 bis of the Income Tax Law).

1.5.1. Dividends

In general terms, Chile applies an imputation system. Business, investment and unspecified income is subject to business income tax (*impuesto de primera categoría*) at the level of the enterprise and then subject to individual income tax (*impuesto global complementario*), when subsequently derived by resident individual shareholders, or subject to non-resident tax (*impuesto adicional*), when derived by non-resident shareholders (both legal entities and individuals). However, in general, the business income tax paid by the enterprise can be (partially or fully) credited against the shareholders' tax liability. The tax reform introduced by Law 20,780 of 2014 has been gradually changing the business income tax system from 1 October 2014, and will continue to do so until tax year 2018. The new system gives the taxpayer an option between two alternative systems, the attributable income system (*regimen de renta atribuida*) and the partial credit imputation system (*regimen de imputación parcial de crédito*). Under the attributable income system, the same income is taxed in the hands of the business and in those of the shareholders upon accrual, i.e. irrespective of actual distribution. The business income tax paid is fully creditable against the shareholders' tax liability. This system is not available for enterprises having resident legal entities as shareholders. On the other hand, under the partial credit imputation system, income is subject to business income tax at a higher rate (effective from tax year 2017) and subsequently taxed in the hands of the shareholders, but only when effectively distributed. In addition, only a partial credit for the business income tax levied on the distributed income is granted.

1.5.2. Interest

Interest received by residents is included in taxable income.

1.5.3. Royalties

Royalties are normally treated as business income (*see* section 1.3.).

1.5.4. Income from immovable property

Pursuant to Law 20,780, up to 31 December 2015, income from agricultural immovable property was subject to business income tax under general rules. The owner or usufructuary could deduct the immovable property tax paid from the business income tax. Under certain circumstances business income tax could be paid on estimated income.

Income from non-agricultural immovable property exceeding 11% of the cadastral value in the tax year, or derived by persons other than the owner or usufructuary of the property, was subject to business income tax and individual income tax under the general rules. Income was exempt from business income tax, but subject to individual income tax, if it did not exceed the 11% threshold and was derived by the owner or usufructuary. In this case, income was presumed to be 7% of the cadastral value, but the taxpayer could choose to be taxed on actual net income.

Effective as from 1 January 2016, notwithstanding the existence of a simplified income tax regime on presumptive income for small agricultural businesses, income from immovable property, whether agricultural or non-agricultural, is taxed on actual income. Generally, the owner or usufructuary of the immovable property may deduct the immovable property tax from the business income tax. Actual income derived from non-agricultural immovable property by individuals is exempt from business income tax.

1.6. *Capital gains*

Capital gains are generally considered ordinary income and are thus subject to business income tax (and, subsequently, to individual income tax or non-resident income tax with a credit for the business income tax paid) when realized, i.e. in the case of a sale, alienation or disposal of fixed assets.

Capital gains may also be subject to special taxation, i.e. subject to a final tax, or not considered to be taxable income. For tax-exempt capital gains, *see* section 1.2.2. and Corporate Taxation sections 1.4. and 1.7.

1.6.1. Immovable property

Up to 31 December 2016, capital gains arising from the alienation of immovable property that was part of the assets of a person subject to business income tax on actual net income were subject to tax under the general rules.

Capital gains arising from the alienation of immovable property, other than that mentioned above, were exempt from tax (receipts not considered income) provided that:

- the property had been owned for more than a year (before the alienation);

- the alienator did not habitually buy and sell properties (transactions are always considered “habitual”, inter alia, when included in the company’s deed of incorporation as part of the business); and
- transactions were not carried out between related parties (i.e. shareholders of an open joint-stock company, owning 10% or more of the shares, or shareholders of a closed company limited by shares, and the joint-stock company or a company in which they have an interest).

If this was not the case, capital gains were subject to tax (business income tax and individual income tax or non-resident income tax) under the general rules.

As from 1 January 2017, capital gains arising from the alienation of immovable property by taxpayers not subject to business income tax on actual income are subject to individual income tax (resident individuals) or non-resident income tax (non-resident individuals). Capital gains from the alienation of immovable property by taxpayers subject to business income tax on actual income are subject to business income tax as ordinary income and are subsequently subject to individual income tax (or non-resident income tax) upon attribution or distribution (depending on the tax regime) under general rules (i.e. business income tax is a credit against individual income tax or non-resident income tax).

However, capital gains arising from the alienation of immovable property located in Chile and acquired after 1 January 2004, obtained by individuals not subject to business income tax on actual income are not considered income for income tax purposes up to 8,000 indexed units (UF), provided that certain specific requirements are met. Any capital gain above the referred to 8,000 UF is taxable with the individual income tax or to a 10% final tax (upon taxpayer´s choice when the taxpayer is domiciled or resident in Chile) or, subject to the non-resident income tax when the taxpayer is not resident or domiciled in Chile. The 8,000 UF threshold is determined per each individual during his entire life (not per alienation).

For capital gains arising from the alienation of immovable property acquired before 1 January 2004, in order for not being considered income for income tax purposes, legislation existing prior Law 20,780 applies as explained in the paragraphs above. Capital gains arising from the alienation of such immovable property by taxpayers subject to business income tax on actual income are subject to business income tax under general rules.

1.6.2. Shares

Up to 31 December 2016, capital gains from the alienation of shares were subject to business income tax, and subsequently to individual income tax or non-resident income tax with a credit for the business income tax paid, where:

- shares had been owned for less than a year before the alienation;
- the alienator habitually bought and sold shares (transactions were always considered “habitual” when included in the company’s deed of incorporation as part of the business); or
- transactions were carried out by shareholders of an open joint-stock company, owning 10% or more of the shares, or shareholders of a closed company limited by shares, or members of other companies, or in the case of transactions between the above shareholders or members and the joint-stock company or a company in which they had an interest (related parties).

If none of the above circumstances applied, capital gains from the alienation of shares were subject to a flat tax at the rate of 20% (*impuesto único a la renta*) and the income was not subject to any further individual income tax or non-resident income tax.

However, capital gains from the alienation of shares acquired before 31 January 1984 were not considered income for tax purposes and, thus, were not subject to income tax.

In addition, capital gains from the alienation of shares were exempt from tax when derived by persons that were not subject to business income tax on actual net income, provided that the gains did not exceed ten monthly tax units or ten annual tax units.

As from 1 January 2017 the flat tax regime no longer applies. Therefore, capital gains obtained from the alienation of shares by taxpayers not subject to business income tax on actual income are subject to individual income tax (resident individuals) or 35% non-resident income tax (impuesto adicional). Capital gains from the alienation of shares obtained by taxpayers subject to business income tax on actual income are subject to business income tax as ordinary income and are subsequently subject to individual income tax or non-resident income tax upon attribution or distribution (depending on the tax regime) under general rules (i.e. business income tax is a credit against individual income tax or non-resident income tax).

The income tax regime for capital gains from the alienation of shares acquired before 31 January 1984, remains in force.

Capital gains from the alienation of shares are not considered income for income tax purposes when derived by individuals not subject to business income tax on actual income, provided that the gains do not exceed 10 annual tax units (UTA) per year and the transaction does not take place between related parties.

For other tax-exempt capital gains, *see* Corporate Taxation sections 1.7.3., 1.7.4. and 1.7.9.

The Chilean Income Tax Law defines the taxable base for capital gains essentially as “sale price” minus “tax cost” of the shares. Tax cost is defined as the cost of acquisition of the shares adjusted because of any capital increase or capital reduction, as appropriate. Each amount involved in the determination of the tax cost should be indexed according to the Consumers Price Index (*Índice de Precios al Consumo*, IPC).

1.7. *Personal deductions, allowances and credits*

1.7.1. Deductions

Employees and individual income tax taxpayers may deduct from their taxable income interest paid during the taxable year on mortgages for the acquisition or construction of dwellings up to a maximum amount which varies depending on the annual gross income of the person.

Taxpayers may also deduct voluntary pension savings from their taxable income (within certain limits).

1.7.2. Allowances

Generally, there are no basic or other allowances.

1.7.3. Credits

Taxpayer participants in mutual funds holding investments in shares may credit a certain percentage of the gains obtained from the redemption of quotas in such mutual funds and of gifts made for cultural or sporting purposes.

Taxpayers may credit the amount of education expenses for children (up to 25 years old) up to a maximum of 4.4 development units per child, provided the total income of both father and mother does not exceed 792 development units.

An imputation credit applies for income already subject to business income tax – *see* section 1.5.1.

This section is not applicable to non-residents, *see* section 6.3.1.

1.8. *Losses*

Generally, losses may not be set off, except in the case of taxpayers deriving business income subject to business income tax on actual income. If this is the case, losses are deductible and up to 31 December 2016 could also be set off against profits that had not been distributed. If the profits are not sufficient to offset the losses, the losses may be carried forward indefinitely. When losses could be set off against non-distributed profits, the business income tax paid on such profits was treated as an advance payment and could be set off against income taxes (business income tax, individual income tax or non-resident income tax) or refunded. As from 1 January 2017, losses can no longer be set off against non-distributed profits.

There are no special rules for capital losses. However, individual income tax taxpayers are specifically authorized to offset certain investment income (e.g. dividends, interest and life annuities) and capital gains against capital losses incurred in the same kind of investment or transaction. Such losses may not be carried forward.

1.9. *Rates*

1.9.1. Income and capital gains

Annual individual income tax and employment income tax is levied at the following rates as of 1 January 2017:

Tax base (annual tax units)	*Rate (%)*
Up to 13.5	0
13.5 - 30	4
30 - 50	8
50 - 70	13.5
70 - 90	23
90 - 120	30.4
Over 120	35

Neither surtaxes nor surcharges apply.

1.9.2. Withholding taxes

Income from employment is normally subject to a final monthly tax withheld by the employer. In case the employee has income other than employment income (except income from specific investments) or income from other employment, he must recalculate the tax and declare his income by filing an annual income tax return. In such cases, the monthly withholding tax on employment income is credited against the final income tax liability.

Income from an individual's independent activities (e.g. professional income) is subject to withholding tax or to monthly provisional payments made by the individual at the rate of 10%, both of which are creditable against final individual income tax liability.

Fees and participations in profits derived by a member of a board of directors or advisory board are subject to withholding tax at a rate of 10%, which is creditable against the final individual income tax liability.

For withholding rates on amounts paid to non-domiciled individuals, *see* section 6.3.

1.10. *Administration*

1.10.1. Taxable period

The tax period (*año comercial*) is the calendar year, except in special cases, i.e. opening and closing periods of businesses. Chilean income tax law uses the term *año comercial* (financial year) to refer to the tax year and *año tributario* (literally, tax year) to refer to the year of assessment.

1.10.2. Tax returns and assessment

Employees with only one employer and no other income in the tax year are not required to submit an annual tax return. Employees deriving income from more than one employer or other income must file an annual return.

Individuals deriving income subject to individual income tax must file an annual tax return. Individual income tax is computed by the taxpayer on a self-assessment basis.

The annual income tax return must be filed in April of the year following the tax year.

1.10.3. Payment of tax

With respect to salaries and other taxable benefits earned by employees, the employer withholds the tax on a monthly basis. With respect to professional income, there are two possibilities: either the tax is withheld by the payer, or, if this is not the case, the tax must be paid as an advance payment ("monthly provisional payment") by the person deriving the income.

Final payment of the tax liability for the current year must be effected in a single payment, within the term for filing the return and along with it (April of the year following the tax year).

1.10.4. Rulings

The SII's Commissioner is empowered to give administrative interpretations of the law to taxpayers. Requests regarding specific cases in which the taxpayer has a real interest, or specific transactions about which there is a need for certainty, are answered.

2. Other Taxes on Income

Chile does not levy any other tax on income.

3. Social Security Contributions

All resident or domiciled employees must pay monthly contributions to the social security system, based on individual accounts.

Compulsory social security contributions are deductible for individual income tax purposes. Voluntary deposits or contributions to the private social security system are also deductible up to a certain amount.

3.1. *Employed*

Social security contributions are computed as a percentage of the employee's total monthly remuneration (i.e. salary, benefits in kind, bonuses, etc.). The maximum base for the computation is 75.7 UF for 2017.

The rates for employee social security contributions are as follows:

- 10% of salaries (pension contribution);
- a percentage commission fee charged by the pension fund administrator for management services (this ranges approximately from 0.47% to 1.54%); and
- 7% for health insurance.

In addition, employees may also be subject to:

- contribution for "heavy" work: both the employer and the employee must contribute 2% of the salary (the percentage may be reduced to 1%); and
- employment insurance: the employer (2.4% of the part of the salary not exceeding 113.5 UF in 2017), the employee (0.6% of that part of salary with the same cap or 0% in of work contract for a fixed period) and the state (18,816 tax units per month) must each contribute to finance this insurance.

Employers must withhold and pay the contributions.

In addition, employers must pay, inter alia, the premium for the disability and life insurance irrespective of the number of workers, which is currently 1.41% (from July 2016 until June 2018).

3.2. *Self-employed*

Social security are compulsory for self-employed persons (pension contribution, administration commission fee, disability and life insurance, and other labour law contributions). However, under Law 20,894, self-employed individuals may opt to be exempt from this obligation for their income obtained up to 31 December 2017. The contributions are computed at ordinary rates on 80% of gross income from independent personal services arising in the calendar year preceding the year in which the income tax return is due for filing. The computation basis cannot be less than the minimum salary nor exceed 74.3 development units. Effective 1 January 2018, health contributions (7%) are also compulsory without exception.

4. Taxes on Capital

4.1. *Net wealth tax*

Chile does not levy net wealth tax on individuals.

Domiciled individual entrepreneurs are subject to an annual municipal business licence fee, normally calculated as a percentage of capital. The tax rate varies according to the municipality and location within the municipality and ranges from 0.25% to 0.5%. It may not be less than one tax unit nor exceed 8,000 tax units. Taxpayers who are not required to pay their income tax on the basis of a general balance sheet are liable to an annual licence fee equal to one monthly tax unit.

4.2. *Real estate tax*

An immovable property tax (*impuesto territorial or contribuciones de bienes raíces*) is levied on an annual basis on urban or rural immovable property. It is administered by the central government and the revenue is allocated to the municipalities. Taxable persons are the owners or users of the property.

The taxable base is the official cadastral value. An exemption is granted for properties whose cadastral value does not exceed a certain limit. The tax is levied on that part of the cadastral value of each piece of immovable property exceeding the relevant exempt limit without regard to the number of owners or to the taxpayer's personal wealth. For urban property used as dwelling house the rate is progressive and is divided into three brackets, the limits of which are adjusted every semester for inflation: the first bracket is exempt, the second is taxed at 0.980% and the third is taxed at 1.143%. Other urban property is taxed at a flat 1.143% rate. Rural land is taxed at a 1% rate.

Owners or usufructuaries that lease agricultural property may credit the tax against their liability to business income tax. In the case of non-agricultural property, up to 31 December 2015, the tax was creditable only if the rent belonged to a joint-stock company or the property was leased for an annual rent representing in the aggregate at least 11% of the cadastral value. Pursuant to Law 20,780, effective as from 1 January 2016, in the case of lease of non-agricultural property the immovable property tax is creditable against business income tax provided that (i) the taxpayer is subject to business income tax on actual income not determined according to full accounting records and (ii) that the transaction does not take place between related parties. Non-creditable immovable property tax is deductible for income tax purposes.

Taxable urban land without buildings or vacant is subject to the property tax and to a 100% surcharge. Property located in urban expansion areas or in rural areas is exempt from the surcharge. In certain cases (subdivision of land, total demolition following destruction due to causes of which the proprietor or dweller are not responsible) a 10-year holiday may be granted.

5. Inheritance and Gift Taxes

Chile levies inheritance and gift tax (*impuesto a las herencias, asignaciones y donaciones*) on the net value of transfers of property upon death or inter vivos gifts at progressive rates.

5.1. *Taxable persons*

Tax is imposed on the recipient of taxable property, i.e. heir or legatee of an inheritance or bequest, or the donee of a gift.

5.2. *Taxable base*

Taxable property is the property of the decedent's gross estate for purposes of its apportionment to the recipients, or the specific gift. The value of taxable property must be assessed by the taxpayer under rules provided in the law to calculate its taxable value.

Taxable property includes:

- any Chilean-situs property of a decedent or donor, regardless of the nationality or residence of the transferor and recipient;
- any foreign-situs property of a Chilean decedent or donor; and
- any foreign-situs property of a foreign decedent or donor who acquired that property with Chilean-source resources.

Exempt property includes: bequests and gifts to the central or local government and, generally, to non-profit entities with a charitable or similar purpose; re-adjustable savings bonds of the central bank and long-term state bonds; and wages due to a decedent employee.

5.3. *Personal allowances*

The tax is levied on each recipient's taxable base. The taxable base is calculated as the amount of the estate or gift apportioned to each recipient, reduced by a specific amount depending on the recipient's relationship with the decedent:

Recipient's relationship	*Exemption*
Category I (spouse; a direct/adoptivedescendant/ascendant)	- 50 tax units (in case of decedent's recipient) - 5 tax units (in case of donor's recipient)
Category II (brother/sister; nephew/niece; uncle/aunt; first cousin)	- 5 tax units (in case of decedent's recipient) - no deduction in case of donor's recipient
Category III (other persons)	no deduction

5.4. *Rates*

Rates are progressive and also depend on the relationship with the decedent or donor (*see* categories above).

Taxable base (annual tax units)	*I (%)*	*II (%)*	*III (%)*
Up to 80	1	1.2	1.4
80 - 160	2.5	3	3.5
160 - 320	5	6	7
320 - 480	7.5	9	10.5
480 - 640	10	12	14
640 - 800	15	18	21
800 - 1,200	20	24	28
Over 1,200	25	30	35

5.5. *Double taxation relief*

An ordinary tax credit is granted for the foreign tax paid with respect to property situated abroad.

6. International Aspects

6.1. *Resident individuals*

For the concept of resident or domiciled individuals, *see* section 1.1.

6.1.1. Foreign income and capital gains

Resident or domiciled persons are subject to income tax on their worldwide income (*see* section 1.2.1.).

Foreign-source income and capital gains are, in general, fully taxable. Only net income is considered; income is excluded if it is not available for reasons of force majeure or legal provisions of the country of origin.

Foreign pensions are not considered income.

6.1.2. Foreign capital

Chile does not levy net wealth tax on individuals.

Foreign-situs immovable property is not subject to immovable property tax in Chile.

6.1.3. Double taxation relief

As a unilateral measure for the avoidance of double taxation in relation to foreign-source income, Chile uses the ordinary tax credit method. The credit is granted with respect to foreign dividends or profit distributions, royalties, technical assistance and other similar fees received, as well as with respect to fees for services qualified as an export by the National Customs Service (Law No. 20,956), income accrued or remitted by permanent establishments located abroad, and income subject to the CFC rules. Law No. 20,956 also granted a credit with respect to taxes withheld at source on income from independent personal services and employment.

In respect of other income, the foreign tax may only be deducted from the foreign-source income.

The credit is generally limited to the lesser of the business income tax calculated (according to a specific formula) on the foreign-source income or the foreign tax effectively paid.

In respect of taxes paid on dividends, profit distributions and income from independent personal services and employment, the credit equals the lesser of: (i) a 32% credit limit calculated (according to a specific formula) on the foreign-source net income derived by the taxpayer in the tax period, or (ii) the foreign tax effectively paid.

With respect to dividends and profit distributions, an underlying tax credit is granted. Furthermore, the income tax paid by companies on the profits distributed to the company that remits such profits to Chile may also be credited (indirect foreign tax credit), provided that at least 10% of the capital of the first-mentioned companies is directly or indirectly owned by the company remitting the profits. Under amendments introduced by Law 20,899 of 2016, the indirect foreign tax credit is also granted in case that the companies making the distribution to the company that remits such profits to Chile are resident in a different country, provided this country has a tax treaty or exchanges information with Chile.

The ordinary credit method is generally also used in comprehensive tax treaties concluded by Chile. In this case, a credit is granted for an amount which is the lesser of: (i) the foreign tax effectively paid, or (ii) 35% credit limit calculated (according to a specific formula) on the foreign source income with respect to all income referred to in the tax treaty. For a list of tax treaties in force, *see* Corporate Taxation section 6.3.5..

The foreign tax credit can be carried forward. There is no carry-back of the foreign tax credit.

6.2. Expatriate individuals

6.2.1. Inward expatriates

There is no special expatriate regime in Chile. A foreign individual rendering dependent or independent personal services in Chile without acquiring Chilean domicile or resident status is treated as a non-resident or non-domiciled individual (*see* section 6.3.).

However, a foreign individual that acquires Chilean domicile or residence is liable to income tax only on his Chilean-source income during the first 3 years in the country (this period may be extended by the tax administration in special cases).

A foreign technician (as well as his employer) is exempt from Chilean social security obligations, provided that the foreign individual is included in a social security scheme outside Chile and that he expresses a desire to continue under that scheme in the employment contract. The exemption does not cover contributions for an insurance that covers work accidents and professional illness.

6.2.2. Outward expatriates

A resident or domiciled individual that moves abroad remains subject to tax in Chile on a worldwide basis until the domicile and/or resident status expires. Domicile in Chile is not lost through temporary absences or lack of residence. Consequently, an individual who does not actually reside in the country is considered to be domiciled for tax purposes if he leaves the country but retains the principal seat of his business in Chile, either as a sole proprietor or as a member of a body of persons (which is treated as a legal entity).

6.3. *Non-resident individuals*

Individuals are non-residents if they are not resident or domiciled in Chile. For the concept of resident or domiciled individuals, *see* section 1.1.

6.3.1. Taxes on income and capital gains

In general, non-residents deriving Chilean-source income are subject to a final withholding tax at the general rate of 35% on the gross amount derived (non-resident income tax, *impuesto adicional*). Special rates apply to certain types of income – *see* sections 6.3.1.2. and 6.3.1.3.

Chilean-source income is generally income from assets located in Chile or activities carried out therein. However, the concept of Chilean-source income also covers gains from the indirect disposal of Chilean assets made between non-residents (article 10 of the Income Tax Law, ITL). Additionally, remunerations paid in Chile to non-residents for services rendered abroad are subject to non-resident income tax.

The following assets are deemed to be located in Chile (article 11 of the ITL):

- shares or participation rights in companies incorporated in Chile; and
- bonds and other private or public debt instruments issued in Chile by taxpayers domiciled, resident or established in the country (Law 20,780 of 2014).

In addition, interest is deemed to arise in Chile where:

- the debtor is domiciled in Chile; or
- the head office is in Chile, regarding debt instruments contracted or issued by a permanent establishment located abroad (Law 20,780 of 2014).

6.3.1.1. Employment income

See section 6.3.1.2.

Director’s remuneration derived by non-residents is subject to withholding tax at the rate of 35% on the gross amount.

6.3.1.2. Business and professional income

Generally, income from services is subject to withholding tax (non-resident income tax) at the rate of 35% on the gross amount.

However, remuneration paid to non-residents for engineering and technical works, or professional or technical works supplied in the form of an advice, report or draft (*plano*), whether carried out in Chile or abroad, is subject to withholding tax at the rate of 15%. The rate is increased to 20% if the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list or in a preferential tax jurisdiction according to article 41H of the Income Tax Law. The increase used to be applicable also for payments between related parties, but this was repealed by Law 20,956.

Under Law 20,780 of 2014, income derived by all non-resident individuals from scientific, cultural or sporting activities in Chile, arising exclusively from their work or skills, is subject to non-resident income tax at the rate of 20% on the gross amount (previously, this tax rate was applicable only to foreign individuals; article 60, paragraph 2 of the ITL).

The treatment of Chilean-source business income derived by non-residents depends on whether or not the non-resident has a permanent establishment in Chile.

Permanent establishments in Chile of non-residents are treated as separate entities for income tax purposes. A permanent establishment (PE) of a non-resident person operating in Chile is subject to income tax on its attributable worldwide income (previously, PEs were considered non-residents subject to tax on Chilean-source income). Only the income originating from activities of the PE, or from assets assigned to, or used by, the PE, is attributed to the PE.

The PE is considered an enterprise fully separated and independent from its head office in respect of transactions made between the PE and enterprises related to the head office or with other independent parties. However, some specific rules apply. Income is generally subject to business income tax under general rules and to non-resident income tax on remittances abroad at the general rate (except with respect to interest). The business income tax paid is credited against the non-resident income tax. Permanent establishments are also subject to the municipal licence.

Non-resident companies without a permanent establishment in Chile are subject to non-resident income tax on their Chilean-source income, with a credit for the business income tax paid with respect to that income.

6.3.1.3. Investment income

Dividends distributed by Chilean joint-stock companies to non-resident taxpayers (legal entities or individuals) are subject to non-resident income tax at the rate of 35%. This tax is withheld at source, and is a final taxation. Depending on the taxation system of the distributing company (*see* section 1.5.1.), shareholders are taxed upon accrual, i.e. irrespective of actual distribution (for distributing companies under the attributable income system), or on receipt (for distributing companies under the partial credit imputation system). In view of an imputation system, a credit for the business income tax paid on the underlying profits is available by applying to the dividend the rate at which the underlying business income tax was paid. However, a full credit is granted only in case shareholders are resident in a country with which Chile has signed a tax treaty. Otherwise, the credit is limited to 65%.

Interest derived by non-residents is subject to withholding tax (non-resident income tax) at the general rate on the gross amount derived. However, in case of certain interest that fulfils the requirements defined by law, the non-resident income tax rate is 4%; this reduced rate applies to, e.g., interest paid on current accounts and term deposits placed with an authorized institution; interest to finance imports; interest on Chilean or foreign-currency bonds issued by Chilean companies; and interest on Chilean or foreign-currency bonds issued by the state and the central bank.

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of trademarks, patents, formulas and other similar supplies are subject to withholding tax (non-resident income tax) at the rate of 30% on the gross amount.

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of discovery patents, utility models, industrial drawings and designs, sketches (*esquemas de trazado*) or topographies of integrated circuits and new vegetal varieties are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount.

Payments made to non-residents for the use of, the right to use (*goce*) or the exploitation of computer programs are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount.

However, in respect of the two previous paragraphs, the rate is 30% if the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list or a preferential tax jurisdiction according to article 41H of the Income Tax Law.

Payments for the use of copyright or authors' rights are subject to withholding tax (non-resident income tax) at the rate of 15% on the gross amount.

For other withholding tax rates *see* Corporate Taxation. For withholding tax rates under tax treaties, *see* Corporate Taxation section 6.3.5..

6.3.1.4. Capital gains

Capital gains derived by non-residents are generally subject to non-resident income tax at the rate of 35% following the rules discussed in section 1.6.

6.3.2. Taxes on capital

There is no net wealth tax on individuals.

Non-domiciled taxpayers are liable to immovable property tax levied on Chilean-situs immovable property (*see* section 4.2.).

6.3.3. Inheritance and gift taxes

Chile levies inheritance or gift tax upon non-resident beneficiaries or donees (*see* section 5.).

6.3.4. Administration

Non-residents deriving Chilean-source income directly are subject to final withholding tax separately in respect of each item of income and capital gains, and thus are not generally required to file tax returns. However, there are exceptions for non-residents deriving certain types of Chilean-source income. Non-residents carrying on their activities through a permanent establishment in Chile and certain other non-residents must file income tax returns and make a self-assessment of the tax due.

KEY FEATURES

Last reviewed: **14 February 2017**

A. General information	
Sources of tax law	Income Tax Law (*Ley sobre Impuesto a la Renta*, LIR) VAT Law (*Ley sobre Impuesto a las Ventas y Servicios*, IVA) Tax Code (*Código Tributario*) Real Property Tax Law (*Ley sobre Impuesto Territorial*) Stamp Tax Law (*Ley sobre Impuesto de Timbres y Estampillas*)
Main types of business entities	Joint-stock company (*sociedad anónima*, SA) Simplified joint-stock company (*sociedad por acciones*, SpA) Limited liability company (*sociedad de responsabilidad limitada*, SRL)
Accounting principles	IFRS
Currency	Chilean peso (CLP)
Foreign exchange control	No
Official websites	Tax Administration http://www.sii.cl/ Ministry of Finance http://www.minhda.cl/ Congress Library http://www.bcn.cl/ Treasury http://www.tesoreria.cl/web/index.jsp
B. Direct taxation: Companies	
1. Resident companies	
Residence	A company is resident in Chile if it is incorporated in Chile
Tax base	Worldwide
Corporate tax rates	25% or 25.5%
Alternative minimum tax	No
Capital gains	Yes, part of business income Listed shares exempt (under conditions)
Loss carry-forward	Yes, indefinitely
Loss carry-back	No
Unilateral double taxation relief	Yes, ordinary tax credit method (with restrictions) and deduction method
2. Non-resident companies	
Corporate tax rates	35% (business income tax paid is creditable) 25% or 25.5% for PEs of non-resident companies
Capital gains on sale of shares in resident companies	Yes, part of business income (also subject to non-resident income tax, but business income tax paid is creditable) Listed shares exempt (under conditions)

Capital gains on sale of immovable property	Part of business income if immovable property forms part of business assets Otherwise, not taxable
Withholding tax rates	
Branch profits	Yes, 35% (business income tax paid is creditable)
Dividends	35% (business income tax paid is creditable)
Interest	35%; 4%; 0% (interest paid by Chilean banks to foreign banks)
Royalties	30%, 20%, 15%, 0%
Fees (technical)	15% (20% under certain conditions)
Fees (management)	15% (20% under certain conditions)
3. Specific issues	
Participation relief	Inbound dividends: no Outbound dividends: no
Group treatment	No
Incentives	Foreign investment statute Foreign institutional investors Business platform regime Foreign investment funds Several exemptions from taxation of capital gains Special regime for income from bonds Research and development credit Regional incentives
Anti-avoidance	
Transfer pricing legislation	Yes
Thin capitalization legislation	Yes
Controlled foreign company legislation	Yes
General anti-avoidance rule (GAAR)	Yes
Other anti-avoidance legislation	Tax haven legislation
C. Direct taxation: Individuals	
1. Resident individuals	
Residence	Individuals present in Chile for more than 6 months in one calendar year or 2 consecutive calendar years are residents. Persons domiciled in Chile (individuals that have the intention to stay in Chile on a permanent basis) are also subject to tax as residents
Taxable income	Worldwide
Income tax rates	Progressive Top rate 35% (over 120 annual tax units)
Alternative minimum tax	No
Capital gains	Yes, part of business income (with credit for business income tax paid) Special final tax or exemption (under conditions)

Unilateral double taxation relief	Yes, ordinary tax credit method (with restrictions) and deduction method
Social security contributions	10% of salaries for pensions plus commission fee for pension fund management services 7% for health services
2. Non-resident individuals	
Income tax rates	35% (business income tax paid is creditable)
Capital gains on sale of shares in resident companies	35% (business income tax paid is creditable) tax exemption under conditions
Capital gains on sale of immovable property	35% (business income tax paid is creditable) tax exemption under conditions
Withholding tax rates	
Employment income	35%, 20%, 15%
Dividends	35% (business income tax paid is creditable)
Interest	35%, 4%
Royalties	30%, 20%, 15%
Fees (technical)	15% (20% under certain conditions)
Fees (directors)	15% (20% under certain conditions)
D. Indirect taxation: Value added tax (VAT)/Goods and services tax (GST)	
Taxable events	Supply of goods, supply of services, importation
VAT/GST (standard)	19%
VAT/GST (reduced)	No
VAT/GST (increased)	No
Registration/deregistration threshold	No
VAT group	No
E. Other taxes	
Inheritance and gift taxes	Yes
Net wealth tax (individual)	No
Net wealth tax (corporate)	No, but annual business licence fee as percentage of capital
Real estate taxes	Yes
Capital duty	No, but annual business licence fee as percentage of capital
Transfer tax	No
Stamp duty	Yes
Excise duties	Yes
Other main taxes	Special tax on mining income

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