CHILE

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1. INTRODUCTION

a. Forms of Legal Entity

Chilean law provides for several types of legal entities. The most common are:

- Limited Liability Companies (*Sociedad de Responsabilidad Limitada*) ("SRL")
- Corporations (*Sociedad Anónima*) ("SA")
- Simplified Corporations or Stock Companies (*Sociedad por Acciones*) ("SpA")

In the majority of cases, the type of organisation can be freely chosen, with the exception of specifically regulated business areas such as banking, financial services, insurance companies, and other activities for which the law determines the legal type that must be followed. SRL, SA and SpA are subject, in general, to the same tax treatment in Chile.

An SRL requires a minimum of two partners, with a maximum of 50. The partners have no personal liability for the company's obligations and their liability is limited to the capital they contributed. Management of the company can be freely agreed by the partners; it can be entrusted to one or more partners, a third party or to a board of directors.

An SA requires a minimum of two shareholders. If an SA has more than 500 shareholders, or if 10% of its subscribed capital is owned by 100 shareholders or more, it must register with the Financial Market Commission (*Comisión para el Mercado Financiero*) ("CMF") and also with a local stock exchange. The shareholders have no liability for the company's obligations and management is carried out by a board of directors with at least three members (for listed companies a minimum of five or seven directors is required, depending on the annual income of the company).

An SpA may have one or more shareholders. If an SpA has more than 500 shareholders, or if 10% of its subscribed capital is owned by 100 shareholders or more, excluding those holding 10% or more, the company must be transformed into a corporation and registered with the CMF as a listed corporation. The shareholders have no liability for the company's obligations, shares can be freely transferred, and management of the company can be freely agreed by the shareholders.

b. Taxes, Tax Rates

i Income Tax

Income taxation in Chile is based on two factors: the taxpayer's place of residence, and the source of income. All Chilean resident or domiciled taxpayers, whether individuals or corporations, are subject to taxes on their total income on a worldwide basis, with the sole exception of foreign individuals who pay taxes on Chilean source income only for their first three years of tax residence or domicile in Chile. Non-resident taxpayers are subject to income tax on the profits obtained from services provided to or assets located in Chile, which generate Chilean source income.

The Income Tax Law divides taxes into Category Taxes and Final Taxes.

ii Category Taxes:

First Category Tax or Corporate Income Tax (*Impuesto de Primera Categoría*) ("CIT"), is a flat rate tax applicable on income obtained from commercial, industrial, mining, and other business activities at a general 27% rate (a lower 25% rate is available for small and medium enterprises and some other entities).

- SMEs Tax Regime

Small and medium enterprises ("SMEs"), (i.e. companies whose annual sales, including related companies' sales, do not exceed *Unidades de Fomento* ("UF") 75,000, approximately USD3 million) may determine tax results under a simplified regime. For the application of the SMEs regime, a passive income threshold of up to 35% of total gross income must be met. The 25% CIT rate shall be fully creditable for shareholders subject to withholding tax ("WHT") or Global Complementary Tax ("GCT") (see below for further details, a reduced 10% CIT applies until 2022).

Second Category Tax or tax on labour income (*Impuesto de Segunda Categoría*) ("SCT"), is a progressive tax applied on income obtained from rendering personal services as an employee with rates ranging from 0% to 40%, calculated on a monthly basis.

iii Final Taxes:

Global Complementary Tax or personal income tax (*Impuesto Global Complementario*) ("GCT") is a progressive tax applied on the total income obtained by individuals domiciled or resident in Chile with rates ranging from 0% to 40%, including income that has been subject to CIT, being the CIT paid totally or partially creditable against the GCT.

Additional Tax or Withholding Tax (*Impuesto Adicional*) ("WHT") is a flat rate tax with a general 35% rate, applicable on the total gross income received by non-resident individuals or non-resident companies when income is withdrawn, distributed as dividends, or remitted abroad. Regarding dividend distributions, the CIT paid by the distributing company may be totally or partially credited against the WHT. Furthermore, if the partner or shareholder is a tax resident in a country with which Chile has a Double Taxation Treaty ("DTT"), the CIT paid shall be fully creditable against the WHT. In addition, WHT is triggered at different rates in the case of certain overseas payments made from Chile, such as technical assistance, interest, and royalties, among others.

iv Value Added Tax

A 19% Value Added Tax ("VAT") is applied, in general, to sales of movable or immovable tangible property located in Chile (excluding land) and for the provision or use of certain services in Chile, such as the activities of industries, commerce, financial and insurance services, marketing, and brokerage, among others. As from 1 January 2023 the general rule will be that all services are subject to VAT, unless exempted by the law.

v Regional Tax

Regional tax is levied at a 1% rate on the value of fixed assets that exceeds USD10 million, acquired in relation to investment projects that are subject to an environmental impact assessment (excluding projects related to health, education, scientific research or technological development, housing and offices), payable once permits are obtained, and operation of the projects initiated.

vi Municipal Licence

An annually levied tax applied for the development of commercial, professional, industrial, investment and business activities. The rate of the municipal licence is determined by each municipality, within a range from 0.25% to 0.5%. However, there is a minimum of 1 Monthly Tax Unit ("UTM") (approx. USD70) and a maximum of 8,000 UTM (approx. USD562,000).

vii Stamp Tax

Loans evidenced by documentation are subject to Stamp Tax at a rate of 0.066% for each month between granting and maturity, capped at 0.8%. In the case of foreign loans, Stamp Tax is applicable even if the loan is not contained in a written document when notarised in Chile or included in the accounting ledgers of the debtor, whichever happens first. Stamp Tax is not applicable to shares.

viii Foreign Trade

Custom duties are assessed ad valorem, which means on the value of the merchandise. The general rate of custom duty is 6%, although some goods are subject to a lower custom duty rate. Chile has an extensive network of Free Trade Agreements, and reduced custom duties, or no custom duty, is applicable to imports carried out under such agreements.

ix Real Estate Tax ("RET")

Owners of real estate property must pay an annual tax in four instalments, in April, June, September and November, based on the fiscal valuation of real estate as assessed by the Chilean Tax Authority. The RET rate for real estate of non-farming use is 1.4%, and for real estate of farming use is 1%. Where there are reassessments of the fiscal value, the tax rate is temporarily reduced and progressively adjusted according to the law to achieve moderate RET increases for taxpayers. A surcharge applies to taxpayers who own real estate properties with a fiscal valuation that exceeds approximately USD550,000.

x Royalty Tax

Royalty tax is applied at progressive rates ranging from 0% to 14% apply on profits obtained in relation to sales of mining products. A bill that aims to modify this tax is under discussion in Congress.

xi Carbon Tax

Carbon tax is applied on the emission of CO_2 and particulate matter over certain thresholds that are set forth in the law, with some exempt industries. The calculation of the tax has to be considered on a case by case basis.

c. Common divergences between income shown on tax returns and local financial statements

The taxable basis for CIT is calculated over net profits based on rules in the Chilean Income Tax Law ("CITL") that resemble Generally Accepted Accounting Principles. Local financial statements follow International Financial Reporting Standards ("IFRS"). Therefore, adjustments are made to financial statements to determine the tax basis. For example, the depreciation charged in the financial accounts is replaced by depreciation determined under tax rules that include, for some assets, accelerated depreciation. Provisions are usually reversed for tax purposes, bad debts are deductible subject to certain rules provided in the CITL, non-monetary assets are adjusted according to local inflation or the applicable exchange rate for investments abroad in foreign currency, among others.

2. RECENT DEVELOPMENTS

a. Tax Modernisation Law

The tax modernisation law (Law No. 21,210), published on 24 February 2020, introduced several amendments to the Chilean Tax Law, designed to simplify them and provide legal certainty to taxpayers. New provisions were included in the law to digitalise administrative procedures and facilitate tax compliance. The tax modernisation law reduced the tax regimes that may apply to business income, introduced Value Added Tax ("VAT") rules for taxing digital (and other) services provided from abroad, set forth the obligation to provide electronic invoices in operations with individual customers, and some new taxes such as the Real Estate Tax ("RET") surcharge, the Regional Tax.

b. Economic Recovery Measures

On 2 September 2020, Law No. 21,256 was published that provides tax measures for encouraging economic recovery. The measures in Law No. 21,256 currently in force are the following:

- Transitional reduction of the CIT rate for companies subject to the SMEs Regime from 25% to 10%, applicable to income generated during business years 2020, 2021 and 2022.
- Instant tax depreciation of investments in fixed assets in Chilean territory, up to 21 December 2022.
- Instant tax amortisation of investments in certain intangible assets protected by law, namely (i) industrial property, (ii) intellectual property and (iii) new plant varieties, acquired until 31 December 2022.

c. Law No. 21.420 of 2022 that reduced or Eliminated Tax Expenditures

On 4 February 2022, Law No. 21,420 was published, which reduces or eliminates tax exemptions or special regimes. For example, the exemption provided in the Chilean Income Tax Law ("CITL") on capital gains arising on the sale of shares of publicly held corporations with liquidity requirements, provided certain conditions are met, was amended. From 1 September 2022, the capital gains arising in such cases will be taxed at a 10% sole tax rate. However, there will continue to be a full exemption if the seller is qualified as an institutional investor.

d. d. Imminent Tax Reform

The Government has announced it will present a tax reform to increase government funding, introducing relevant changes in the rates and credits contained in the current CITL.

3. SHARE ACQUISITION

a. General Comments

The purchase of shares means that the purchaser acquires the company. This includes all assets and liabilities, including any historical liabilities.

From a buyer's perspective:

The income generated by the acquired company (target) is subject to Corporate Income Tax ("CIT"), but only at the level of the company itself, and not at the level of the buyer. Tax losses carried forward may be forfeited following a change of ownership if there is a major change in the nature or conduct of the company's business, as provided in control rules set forth in the Chilean Income Tax Law ("CITL"). Tax losses that are not forfeited may be carried forward and offset against future taxable profits. Acquisitions from foreign resident shareholders of a Chilean company are generally subject to withholding obligations.

From a seller's perspective:

For individuals either local or foreign, Global Complementary Tax ("GCT") and Withholding Tax ("WHT") shall be payable on a cash or accrual basis, as chosen by the taxpayer. For other taxpayers, capital gains will always be considered income, subject to CIT or WHT on a cash or accruals basis.

The tax cost of the shares should be deducted from the sale price to determine the gain. In addition, the transfer of shares is straightforward and calculating the tax cost is relatively simple (applying local inflation rules). However, in some transactions the tax cost basis is hard to evidence (which may impact withholding obligations).

In the case of publicly listed companies, the sale of shares may qualify for a reduced capital gains tax rate of 10% as of 1 September 2022, or continue to be exempt for institutional investors.

Notwithstanding the rules explained above, if the seller is resident in a DTT partner country, reduced rates of capital gains tax may apply, subject to relevant conditions that apply under each DTT (for example, if the DTT excludes special regimes for real estate companies).

b. Tax Attributes

The general rule is that tax losses may be carried forward and offset against future taxable profits. However, tax losses may be forfeited following a change of ownership, (disposal of more than 50% to a non-related party). Losses may be offset against income obtained after the change of ownership provided that:

(i) The company does not alter its line of business within a year prior to and starting from the change of ownership;

(ii) The company contained upon change of ownership sufficient business assets to carry out its business, or in a value proportional to that of its shares upon acquisition; and

(iii) The company does not begin to obtain solely passive income.

c. Tax Grouping

Fiscal unity / tax grouping is not allowed in Chile.

d. Tax Free Reorganisations

A reorganisation is tax free if it qualifies as a corporate restructuring under Chilean tax laws. The conditions to be deemed as such a corporate restructuring are the following:

(i) The restructuring process must meet a criterion known as “legitimate business purpose”; broadly speaking, this means that it must be beneficial from an economic point of view and not carried out solely because of its tax benefits;

(ii) The contributing company must remain after the contribution;

(iii) The company contributing the assets must not receive an actual sum of money as a result of its transfer; and

(iv) The assets must be transferred and registered by the transferee at the same tax basis or book value at which they were recorded in the transferor’s accounting records. This tax basis or book value must be shown in the Shareholders’ resolution or public deed by which the assets were contributed to the company receiving them.

Spin-offs and mergers are also types of tax free reorganisations.

The Chilean Tax Code allows the Chilean Tax Authority (“Chilean IRS”) to challenge the value of any transfer of property if such value differs from the market price of the property transferred, except where a property transfer takes place under the tax free reorganisation rules.

e. Purchase Agreement

The transfer of shares or "interests" / "rights" in an entity must comply with the legal formalities set forth by Chilean Law. The Purchase Agreement will typically contain tax warranties and indemnities. It is usual practice for a purchaser to perform due diligence on the target company, the result of which is reflected in the tax warranties and indemnities.

Income tax returns and accounting records for the last six fiscal years should be examined, according to the statute of limitations applicable for tax purposes in Chile. Late payment of taxes is subject to an 18% interest rate and penalties. However, automatic partial remission rules usually apply over both. Regarding Value Added Tax ("VAT") returns, the maximum statute of limitations is 36 months.

f. Transfer taxes on share transfers (including mechanisms for disclosure and collection)

The transfer of shares, as well as the transfer of other kinds of assets, is not subject to any kind of transfer tax.

g. Share Purchase Advantages

From a seller's perspective, the tax cost of the shares can be deducted from their sale price to determine the gain. The transfer of shares is usually a straightforward mechanism. In the case of publicly listed companies with a stock market presence, the sale of shares may qualify for a reduced 10% tax rate on the capital gains from 1 September 2022, if certain formal requirements of acquisition and sale are met; or may continue to be treated as exempt in the case of institutional investors.

The transfer of shares is not subject to VAT or any transfer taxes.

Carry forward losses may continue to be used by the transferred company provided that certain control rules in the CITL are not breached.

Generally, a 35% WHT will apply to a foreign resident seller of a Chilean company. Whereas, in the scenario of an asset sale, the distribution of profits by the seller company may be taxed at rates of up to 44.45% if the shareholder is not resident in a DTT partner country.

Tax goodwill rules allow for a step up of the tax basis of the non-monetary assets held by the acquired company up to their market value if the acquired company is merged into a Chilean buyer company and the buyer company becomes responsible for the tax liabilities of the absorbed subsidiary. Any amount that exceeds the market value of non-monetary assets will be considered as a non-amortisable intangible for tax purposes.

h. Share Purchase Disadvantages

All historical liabilities of the company are transferred, including tax liabilities.

4. ASSET ACQUISITION

a. General Comments

An asset acquisition allows a buyer to acquire the assets without the tax liabilities of the seller company being transferred. Asset deals, in general, are less common than share acquisitions.

From a buyer's perspective:

From a buyer's perspective, the seller's tax liabilities (as well as other liabilities) are not transferred. The full price paid for the acquisition of tangible assets can be depreciated. The price assigned to the acquisition of intangible assets cannot be amortised for tax purposes (other than under a special transitory regime in force until 2022).

The sale of inventory and some fixed assets is subject to Value Added Tax ("VAT"), which is not always recoverable by the buyer. Also, registration fees for certain property (e.g. real estate) may apply.

The Tax Code provides that if a taxpayer ceases its activities due to the sale, assignment, or transfer to another of all of its assets or businesses, the buyer will become guarantor with respect to the seller's tax obligations in relation to such assets.

From a seller's perspective:

Capital gains will usually be taxed as ordinary income. VAT recharge and payment obligations may become due.

b. Purchase Price Allocation

The purchase price must be allocated based on market value and it usually follows the allocation made between the parties in the purchase agreement.

c. Tax Attributes

Generally, tax attributes are not transferred in an asset acquisition, so they remain available for the seller. VAT paid by the buyer may constitute a VAT tax credit that may be refunded after a two month period if related to the acquisition of fixed assets, provided other requirements are met.

d. Tax Free Reorganisations

Tax free reorganisations apply to the contribution of assets provided:

(i) The restructuring process meets a criterion known as "legitimate business purpose"; broadly speaking, this means that it must be beneficial from an economic point of view and not carried out solely because of its tax benefits;

(ii) The contributing company must remain after the contribution;

(iii) The company contributing the assets must not receive an actual sum of money as a result of its transfer; and

(iv) The assets must be transferred and registered by the transferee at the same tax basis or book value at which they were recorded in the transferor's accounting records. This tax basis or book value must be shown in the Shareholders' resolution or public deed by which the assets were contributed to the company receiving them.

e. Purchase Agreement

In general, liabilities are not transferred other than under the rule transferring responsibility to the purchaser if the seller terminates its activities as a consequence of the sale.

f. Depreciation and Amortisation

The rules for tax and financial depreciation are different.

The Chilean Income Tax Law ("CITL") allows for the deduction of an annual amount of depreciation of tangible assets as an expense, calculated on the net value of the assets after the application of an adjustment for inflation rules.

Generally, the CITL does not allow the depreciation of intangible assets, land, or physical assets that are part of the inventory.

The Chilean Tax Authority ("Chilean IRS") publishes a table of the useful life of the fixed assets to be considered for tax purposes.

Tax law allows the application of a normal depreciation based on the useful life of assets published by the Chilean IRS; accelerated depreciation for one third of such useful life for certain type of assets, super accelerated depreciation considering one tenth of such useful life for certain SMEs and special rules for the depreciation of useless assets.

An instant depreciation regime will apply for certain assets acquired until 31 December 2022.

g. Transfer Taxes, VAT

19% VAT is applied, in general, to sales of movable or immovable tangible property located in Chile (excluding land) if the taxpayer is deemed to be a so called "customary seller", i.e. someone whose main and current activity is subject to VAT. Also, in some cases the sale of fixed assets is subject to VAT. VAT paid by the buyer may constitute a VAT tax credit that may be refunded after a two month period if related to the acquisition of fixed assets, provided other requirements are met. The Chilean IRS has to answer the request within 20 days of receipt of the documents.

h. Asset Purchase Advantages

The buyer will be able to apply depreciation rules (without further restructuring). Also, liabilities are not transferred.

i. Asset Purchase Disadvantages

VAT and other registration fees may apply. For a foreign resident shareholder, a dividend distribution paid from Chile derived from the gain of a sale of assets may be taxed up to a total burden of 44.45% WHT, which is higher than the 35% WHT maximum rate that may apply to gains on the sale of shares.

From a buyer's perspective, tax losses are not available.

5. ACQUISITION VEHICLES

a. General Comments

The structuring of investments in Chile may be achieved by using local and foreign companies, foreign trusts and local or foreign investment funds.

In general, it is possible to acquire assets through a foreign vehicle directly, although regulatory restrictions may apply in the case of border areas.

b. Domestic Acquisition Vehicle

Domestic vehicles can be incorporated or purchased by local or foreign investors without limitations. Foreign shareholders are required to obtain a Chilean Tax ID, but are not subject to further compliance obligations if they only act as a holder.

c. Foreign Acquisition Vehicle

Commonly used domestic vehicles include Limited Liability Companies (*Sociedad de Responsabilidad Limitada*) ("SRL"), Corporations (*Sociedad Anónima*) ("SA") Simplified Corporations or Stock Companies (*Sociedad por Acciones*) ("SpA"), and Investment Funds. Usually, domestic acquisition vehicles are funded through debt, as there is a reduced WHT rate applicable to interest remitted to a treaty country creditor or foreign financial institution.

Foreign acquisition vehicles may acquire shares of a local company or assets in Chile. The sale of the shares of the acquired company may qualify, upon exit of the investment, for reduced rates applicable to capital gains set forth in a Double Taxation Treaty ("DTT"), provided some requirements are met.

d. Partnerships and joint ventures

In Chile there are no transparent entities. Joint ventures are usually formed as companies and for some industries, such as hydrocarbons, joint ventures have a special regulation. There is a local equivalent *Asociación o Cuentas en Participación* ("ACP") whereby two or more business people acquire an interest in one or more commercial operations, which is executed by one of them, in its own name and being the one legally responsible regarding third parties, but subject to the obligation of rendering accounts to the other business people and to distributing profits or losses with them in the proportion agreed. The ACP does not constitute a separate legal entity.

e. Strategic vs Private Equity Buyers

This section is left intentionally blank.

6. ACQUISITION FINANCING

a. General Comments

In Chile, transactions are funded in different ways, namely equity contributions, debt or a combination of both. Each form has its own consequences from a tax perspective. Capital reductions may be repaid to shareholders without tax impact, provided that legal formalities are followed and that there are no taxable or financial profits pending distribution.

b. Foreign Acquirer

This section is left intentionally blank.

c. Debt

In the case where vehicles are financed through debt, interest payable to the non-residents, whether individuals or legal entities, is generally subject to a 35% Withholding Tax ("WHT"), unless a reduced tax rate applies according to the provisions of a Double Taxation Treaty ("DTT") or under local provision for foreign financial institutions. If the lender is a Chilean resident company, it will be subject to Corporate Income Tax ("CIT") (27%, 25% tax rate) on interest income. For a Chilean resident borrower, interest is deductible as an expense, provided that the general requirements set forth in the CITL are met.

Financing is generally subject to Stamp Tax at a rate that ranges between 0.066% and 0.8%.

i Limitations on Interest Deductions

Earnings stripping rules or thin capitalisation rules apply in relation to debts with foreign related parties if the debtor's debt to equity ratio exceeds 3:1. Any interest and other related financial expenses that are subject to WHT at a rate lower than 35% (including reduced DTT rates) on the excessive portion will be subject to a 35% tax at the level of the Chilean debtor with a credit of the WHT paid to be offset against the 35% tax.

Interest accrued on debt with a foreign resident related party cannot be deducted as an expense by the Chilean resident debtor if the corresponding WHT has not been paid.

Financing documents and some operations are generally subject to Stamp Tax at a rate that ranges between 0.066% and 0.8%.

ii Related Party Debt

Local and cross border transactions between related parties must be performed under market value conditions subject to transfer pricing rules and reporting obligations.

iii Debt Pushdown

A Chilean entity to which both equity and debt are contributed for acquiring the target company, should consider as a further step a debt pushdown as the interest expense at the holding level shall not be offset against profits distributed by the acquired company because there are not tax grouping provisions under Chilean law.

d. Hybrid Instruments

Chile does not have special rules for Hybrid Instruments of funding, other than some rules set forth in DTTs. As a result, where hybrid entities or instruments are used the application of tax rules is inherently uncertain and may be subject to challenge by the Chilean IRS.

e. Other Instruments

There are tax benefits applicable to mutual funds and investments or loans by multilateral organisations.

f. Earn-outs

Generally, earn-out payments should be structured under conditions to match the date of the earnout payment with the moment that the tax is triggered.

7. DIVESTITURES

a. Tax Free

The sale of shares and assets are both subject to taxes in Chile. However, in the case of publicly listed companies with a stock market presence, the sale of shares may be tax free and as from 1 September 2022 may qualify for a 10% reduced tax rate on the capital gains, if certain formal requirements of acquisition and sale are met; or continue to be treated as exempt in the case institutional investors.

b. Taxable

Taxable gains are generally considered to be ordinary income subject to income tax, except for some special regimes or exemptions set forth in the law, for example in respect of the sale shares of publicly listed companies provided certain requirements are met.

Chilean resident companies are taxed at a general 27% Corporate Income Tax ("CIT") (a lower 25% rate is available for small and medium enterprises and other entities).

Capital gains from a sale or transfer of shares or rights of a Chilean entity owned by a foreign entity are generally subject to a 35% Withholding Tax ("WHT"), unless this rate is reduced by a Double Taxation Treaty ("DTT").

c. Cross Border

Chile applies an indirect capital gains tax on the transfer by a foreign resident seller of shares of a foreign entity with relevant underlying assets in Chile. This applies if the assets represent at least 20% of the fair market value of the interest of the foreign entity being sold, or if the fair market value of the Chilean underlying asset being indirectly transferred exceeds 210,000 *Unidad Tributaria Anual* ("UTA") (approximately USD174 million), in both cases if 10% or more of the foreign entity is transferred. The indirect capital gains tax also applies if the foreign entity being transferred is resident in a low tax jurisdiction as defined in the Chilean Income Tax Law ("CITL").

The rate applicable to indirect transfer rules is 35% on the proportion that the Chilean assets represent in the capital gain, determined in accordance with the rules set forth in the CITL. The seller may opt to be taxed as if the Chilean assets had been directly sold. A corporate reorganisation process in respect of the foreign company, according to the requirements of the Chilean Income Tax Law, shall not be subject to the indirect transfer rules.

8. FOREIGN OPERATIONS OF A DOMESTIC TARGET

a. Worldwide or Territorial Tax System

All Chilean resident or domiciled taxpayers, whether individuals or corporations, are subject to taxes on their total income on a worldwide basis, with the sole exception that foreign individuals pay taxes on Chilean source income only, for their first three years of tax residence or domicile in Chile. Chilean resident or domiciled taxpayers are subject to taxation on foreign income when received, unless Controlled Foreign Corporations ("CFC") rules apply.

b. CFC Regime

Chile applies Controlled Foreign Corporations ("CFC") rules to tax passive income obtained by a CFC owned by Chilean taxpayers. These rules apply only when the amount of passive income is higher than *Unidades de Fomento* ("UF") 2,400 (approximately USD90,000). According to CFC rules, if a Chilean resident controls an offshore entity and the entity receives or accrues passive income, that resident must regard such passive income as taxable income.

c. Foreign Branches and Partnerships

Companies carrying on a trade in another territory though a foreign branch or permanent establishment must include the branch or permanent establishment results (income or loss) in the determination of the net income tax base. The net income or loss shall be determined according to the Chilean Income Tax Law ("CITL") provisions. Relief is given in Chile for income taxes paid abroad as a credit against Chilean income tax.

d. Cash Repatriation

Dividend distributions paid by an overseas company or by a Chilean branch to a Chilean resident company are subject to tax in Chile. Relief is given for income tax paid abroad as a credit against the Corporate Income Tax ("CIT"). Capital redemptions are not taxed if the investment is reported to the Chilean Tax Authority ("Chilean IRS").

9. OTHER GENERAL INTERNATIONAL TAX CONSIDERATIONS

a. Special Rules for Real Property, including Shares of "Real Property-Rich" Corporations

The transfer of real property (other than land) may be subject to Value Added Tax ("VAT"). The taxation applicable to the capital gain on a sale of shares in a company that owns real estate assets does not differ from the sale of shares in companies that are not real property rich. However, Double Taxation Treaties' ("DTTs") reduced rates on capital gains on the sale of shares generally do not apply regarding property-rich companies.

In addition, real estate property is subject to a yearly tax that is collected by the municipality or boroughs where the real estate is located. Real Estate Tax ("RET") is applied on the fiscal valuation of properties made by the tax authority. The owner of real estate property may pay this annual tax in four installments, in April, June, September and November.

Also, Law No. 21,210 on Tax Modernisation incorporated an RET surcharge, which applies to taxpayers who own properties whose total assessed value exceeds 670 *Unidad Tributaria Anual* ("UTA"), approximately USD550,000. The marginal rate applicable to the upper tax assessment bracket will be increased from 0.275% to 0.425% from 1 January 2023.

b. CbC and Other Reporting Regimes

Chile has adopted the OECD guidelines on transfer pricing reporting obligations including country by country reporting as recommended in action 13 of the BEPS actions.

In addition to the country by country report the Annual Master File Affidavit and the Annual Local File Affidavit must be submitted to the Chilean tax administration.

10. TRANSFER PRICING

Transactions with foreign resident related companies must be carried out under the arm´s length principle. If not carried out under market value, the Chilean tax administration may assess the price and charge a 40% penalty tax.

11. POST-ACQUISITION INTEGRATION CONSIDERATIONS

a. Use of Hybrid Entities

Chilean Tax Law does not address the concept of hybrid entities or its effects, other than rules on Double Taxation Treaties ("DTT"). In practice, as a result, hybrid entities are not commonly seen in Chile.

b. Use of Hybrid Instruments

Chilean Tax Law does not address the concept of hybrid instruments or its effects, other than some rules on DTTs. However, hybrid mismatches may be reviewed under the General Anti-Abuse Rule. As a result, where hybrid instruments are used the application of tax rules is inherently uncertain and may be subject to challenge by the Chilean IRS.

c. Principal / Limited Risk Distribution or Similar Structures

Generally, Chile has implemented BEPS recommendations and follows the OECD methodologies for transfer pricing regulation.

d. Intellectual Property

Intellectual property is regulated and protected by Law No. 17,336, which regulates the registration of copyrights, and by Law No. 19,039, which regulates the registration of industrial property rights.

As a transitory measure, an instant amortisation regimen will apply up to 2022 on the acquisition of certain intangible assets protected by law, namely (a) industrial property (b) intellectual property and (c) new plant varieties.

e. Special Tax Regimes

There are some special tax regimes applicable to investments in extreme southern or northern regions of the country. There are also tax incentives for research and development and a VAT exemption for imports for investment projects of USD5 million or more. In addition, foreign investors who transfer capital or assets to Chile from abroad, of at least USD5 million or its equivalent in other currencies, are eligible for the new framework for foreign investment in Chile, established in Law No. 20,848. Some of the benefits of this law are:

- VAT exemption on the importation of capital goods (certain requirements must be met).
- The non-discrimination regime, in relation to domestic investors.

12. OECD BEPS CONSIDERATIONS

In general, Chile seeks to adopt and follow OECD guidelines, with local adaptation. All BEPS minimum standards have been implemented or are in the process of being implemented. Some of the recommended actions have not been implemented and their implementation is subject to amendment of local law; for example Action 2 (Neutralising the effects of hybrid mismatch arrangements) and Action 4 (Limitation on Interest Deductions) (although earnings stripping rules are in force in Chile).

Chile subscribed to the Multilateral Implement ("MLI") on 6 July 2017 and made the relevant deposit on 26 November 2020. The MLI has been in force since 1 January 2021.

13. ACCOUNTING CONSIDERATIONS

For financial purposes, Chilean companies keep their accounting under IFRS standards. For tax purposes, the Chilean Income Tax Law ("CITL") provides that investments should be re-registered at the acquisition value adjusted by local inflation on a yearly basis. If the investment is abroad, or liabilities are agreed in foreign currencies, such assets and liabilities are adjusted with the corresponding exchange rate on a yearly basis. In these cases, foreign exchange fluctuation may impact the tax results of the company.

As a general rule, the allowed currency for tax purposes is the Chilean peso. However, in some qualified cases the Chilean Tax Authority ("Chilean IRS") may authorise taxpayers to keep their accounting records in a different currency.

14. OTHER TAX CONSIDERATIONS

a. Distributable Reserves

From a legal perspective, distributions to shareholders require that the company has accumulated profits or financial distributable reserves. From a tax perspective, all profit distributions are subject to tax. For such purposes a Business Profits Registry must be prepared by each company.

Intragroup profit distributions are not taxed when both companies are domiciled or resident in Chile. If profits are distributed by a company to a shareholder domiciled or resident abroad, Withholding Tax ("WHT") will apply. Corporate Income Tax ("CIT") paid on such profits is allowed as a tax credit against Final Taxes on a full or partial basis, as explained.

b. Application of Regional Rules

As a member of the OECD, Chile generally follows OECD guidelines and recommendations.

c. Tax Rulings and Clearances

Generally, there is not a ruling or clearance process; however, the Tax Code allows a request for confirmation by the Chilean Tax Authority that a transaction would not be challenged under special or general anti-avoidance rules. The Chilean IRS has to answer the request within 90 days of receipt of the documents. There is also a procedure for requesting the Chilean IRS to confirm the gain derived form a transaction, although such voluntary procedure is usually not used.

15. MAJOR NON-TAX CONSIDERATIONS

Due regard should be given to the legal aspects that arise in the context of an M&A deal.

16. APPENDIX I - TAX TREATY RATES

Chile includes a clause in all tax treaties whereby the Withholding Tax ("WHT") on dividends remitted from Chile is not limited by the caps of the article on Dividends of the Double Taxation Treaty ("DTT"), provided that the first category tax is fully creditable in computing the amount of additional tax to be paid. Therefore, the second column below is only applicable to dividends received by Chile, whereas dividends remitted from Chile will be subject to the 35% WHT with a full credit for Corporate Income Tax ("CIT").

Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Argentina	10 / 15	4 / 12	3 / 10 / 15	[1]
Australia	5 / 15	5 / 10	5 / 10	[2] [3] [4]
Austria	15	4 / 5 / 10	2 / 10	[3] [4]
Belgium	15	5 / 15	5 / 10	[3] [4]
Brazil	10 / 15	15	15	[5]
Canada	10 / 15	10 / 15	10	[5]
China	10	4 / 5 / 10	2 / 10	[3] [4]
Colombia	0 / 7	5 / 15	10	[6]
Croatia	5 / 15	5 / 15	5 / 10	[3] [4] [7]
Czech Republic	15	4 / 5 / 10	5 / 10	[3] [4]
Denmark	5 / 15	4 / 5 / 10	2 / 10	[4] [9]
Ecuador	5 / 15	4 / 5 / 10	10 / 15	[4]
France	15	4 / 5 / 10	2 / 10	[3] [4]
Ireland	5 / 15	4 / 5 / 10	2 / 10	[3] [4] [10]
Italy	5 / 10	4 / 10	2 / 10	[3] [4]
Japan	5 / 15	4 / 10	2 / 10	[4] [11]
Korea, Republic of	5 / 10	4 / 5 / 10	2 / 10	[4] [9]
Malaysia	5 / 15	15	10	[10]
Mexico	5 / 10	5 / 10	10	[10]
Norway	5 / 15	5 / 15	5 / 10	[4]
New Zealand	15	10 / 15	10	
Paraguay	10	10 / 15	15	[5]
Peru	10 / 15	15	15	[5]
Poland	5 / 15	4 / 5 / 10	2 / 10	[4]

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Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Portugal	10 / 15	5 / 10 / 15	5 / 10	[4]
Russia	5 / 10	15	5 / 10	[4] [8]
South Africa	5 / 15	5 / 15	5 / 10	[3] [4] [8]
Spain	5 / 10	4 / 5 / 10	2 / 10	[3] [4] [12]
Sweden	5 / 10	4 / 5 / 10	2 / 10	[3] [4] [12]
Switzerland	15	5 / 15	5 / 10	[3] [4]
Thailand	10	10 / 15	10 / 15	
United Kingdom	5 / 15	4 / 5 / 10	2 / 10	[3] [4] [12]
Uruguay	5 / 15	4 / 15	10	[8]

Footnotes	
1	Dividends - The 10% rate applies when the beneficial owner is a company that directly owns at least 25% of the capital of the company paying the dividends.
2	Dividends - 5% rate applies to dividends paid to a company which holds directly at least 10% of the voting power of the paying company.
3	Interest - The reduced rate applies to interest on loans from banks, insurance companies, publicly traded securities and sale of equipment on credit.
4	Royalties - The reduced rate concerns the use or the right to use industrial, commercial or scientific equipment.
5	Dividends - The 10% rate applies when the beneficial owner is a company that directly or indirectly owns at least 25% of the capital of the company paying the dividends.
6	Dividends - A rate of 0% of the gross dividend applies if the beneficial owner is a company that directly owns at least 25% of the capital of the company paying dividends.
7	Dividends - The 10% rate applies when the beneficial owner is a company that directly owns at least 20% of the capital of the company paying the dividends.
8	Dividends - The 5% rate applies when the beneficial owner is a company that directly owns at least 25% of the capital of the company paying the dividends.
9	Dividends - The 5% rate applies when the beneficial owner is a company that directly or indirectly owns at least 25% of the capital of the company paying the dividends.
10	Dividends - The 5% rate applies when the beneficial owner is a company that directly owns at least 20% of the capital of the company paying the dividends.
11	Dividends - the 5% rate applies when the gross amount of the dividends if the beneficial owner is a company that directly owns, for a period of at least six months ending on the day on which the right to the dividends is determined, at least 25% of the voting rights of the company paying the dividends.

Footnotes	
12	Dividends - The 5% rate applies when the beneficial owner is a company that directly or indirectly owns at least 20% of the capital of the company paying the dividends.

17. APPENDIX II - GENERAL CORPORATE ENTITY TAX DUE DILIGENCE REQUESTS

Nº.	Category	Sub-Category	Description of Request
1	Tax Due Diligence	General	Tax contact person available to discuss income and non income tax matters.
2	Tax Due Diligence	General	A current organisation chart, including all entities by full legal name, jurisdiction, date and place of formation, entity type, class of shares, and ownership percentages. Include a full history of each entity in the structure.
3	Tax Due Diligence	General Tax Information	IRS web portal information.
4	Tax Due Diligence	General Tax Information	Notifications, summons and tax settlements received, completed or in the process of being audited or sentenced.
5	Tax Due Diligence	General Tax Information	Copies of charges issued by the IRS.
6	Tax Due Diligence	General Tax Information	Debt certificates issued by the Chilean Treasury.
7	Tax Due Diligence	Income Tax	Income Tax Declaration for the past three years and corresponding status.
8	Tax Due Diligence	Income Tax	Observation letter of Income Tax Declaration for the past three years.
9	Tax Due Diligence	Income Tax	Annual affidavits and status for the past three years and corresponding status.
10	Tax Due Diligence	Income Tax	Observation letter of annual affidavits for the past three years.
11	Tax Due Diligence	Income Tax	Balance sheets for the past three years.
12	Tax Due Diligence	Income Tax	Net taxable Income for the past three years.
13	Tax Due Diligence	Income Tax	Detail of rejected expenses declared for the past three years.
14	Tax Due Diligence	Income Tax	Tax Equity Capital for the past three years.
15	Tax Due Diligence	Income Tax	General and journal ledgers for the past three years.
16	Tax Due Diligence	Income Tax	Income information, withholding agents and others for the past three years.
17	Tax Due Diligence	Income Tax	Taxable Profit Fund Ledger of periods 31 December 2015 and 31 December 2016.
18	Tax Due Diligence	Income Tax	Business Income Registry for the past three years.
19	Tax Due Diligence	Income Tax	Certification of taxes used as credit in Chile of investment abroad.
20	Tax Due Diligence	Income Tax	Auxiliary Book of use of asset for the past three years

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Nº.	Category	Sub-Category	Description of Request
21	Tax Due Diligence	Monthly Tax	Form N°29 of Monthly Tax Declaration of Valued Added Tax (“VAT”) and payment for the past three years.
22	Tax Due Diligence	Monthly Tax	Purchase and Sales Ledger for the past three years.
23	Tax Due Diligence	Monthly Tax	Invoices, debit notes, credit notes, fee receipts and other received documents, for the past three years.
24	Tax Due Diligence	Monthly Tax	Invoices, debit notes, credit notes, fee receipts and other issued documents, for the past three years.
25	Tax Due Diligence	Monthly Tax	Form No. 50 of Monthly Tax Declaration for the past three years.
26	Tax Due Diligence	Monthly Tax	Withholding ledger for the past three years.
27	Tax Due Diligence	Monthly Tax	Remunerations ledger for the past three years.
28	Tax Due Diligence	Others	Real estate and other assets purchase and sale agreements.
29	Tax Due Diligence	Others	Rentals and leasing contracts with amortisation tables.
30	Tax Due Diligence	Others	Promissory notes, financial or performance guarantees, loan or credit agreements, all mortgages, and any other documents that bear interest and adjustments.

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