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Global Tax Alert

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Taking a more detailed look at Chile's recently passed tax reform bill

The tax reform would make the "semi-integrated" tax regime mandatory for dividend distributions from large Chilean companies to their non-Chilean shareholders. It also would make significant changes to the value-added tax provisions applicable to non-Chilean holding companies. Taxpayers should continue to monitor the enactment of the tax reform bill and the applicability dates, as most provisions would be effective in 2020.

On 29 January 2020, the Chilean Congress approved a tax reform bill that would make the "semi-integrated" tax regime mandatory for dividend distributions from large Chilean companies to their non-Chilean shareholders. The bill would also expand the types of expenses a Chilean company may deduct from its corporate taxable income, define permanent establishment and make significant changes to the value-added tax (VAT) for non-Chilean companies, among other things.

The tax reform process started in August 2018. A tax reform bill was originally passed by the House in August 2019 and then went to the Senate, where it was heavily amended in December 2019. It was finally approved by both chambers on 29 January.

Once enacted, most of the bill's provisions will be effective in 2020.

'Semi-integrated' tax regime

The tax reform bill would make the "semi-integrated" tax regime mandatory for large taxpayers and eliminate the alternative "attributed" tax regime, which has existed since 2017 but has not been widely used.

Like the alternative "attributed" tax regime, the "semi-integrated" tax regime has been in force since 2017 as one of the alternative tax regimes available to Chilean taxpayers and consists of an overall 35% withholding rate applicable to dividend distributions from Chilean companies to their non-Chilean shareholders. Shareholders may credit the corporate tax (27% rate) paid against the 35% withholding tax (WHT), unless the countries in which the shareholders reside do not have a signed income tax treaty with Chile. In those cases, non-tax treaty shareholders will only be allowed to partially credit the corporate tax paid by the Chilean company against the withholding tax, triggering an overall tax rate of 44.5%.

VAT and other taxes applicable to non-Chilean holding companies

The tax reform bill would significantly modify the VAT and other taxes applicable to non-Chilean holding companies as follows:

- Establish a 19% VAT on digital services (downloading or streaming)
- Establish a new simplified VAT registration process for non-Chilean entities that render digital services, including marketing and intermediation, directly to Chilean individuals
- Impose a 19% VAT on services used in Chile that are not subject to or exempt from withholding tax
- Apply new progressive tax rates to real estate assets exceeding approximately US $530,000
- Establish a new regional contribution of 1% on local company investments that exceed US $10 million

Other provisions

The tax reform bill would:

- Establish a reduced 30% WHT (currently 35%) applicable to dividend distributions of retained taxable earnings generated before 2017 and allow shareholders to credit the corporate tax paid by the company against the 30% WHT
- Expand the types of expenses a Chilean company may deduct from its corporate taxable income
- Define permanent establishment following the OECD criteria
- Not allow the domestic reduced WHT rate to apply to interest paid to a foreign financial institution under a back-to-back structure
- Gradually prohibit Chilean holding companies in a tax loss position from claiming a refund of the corporate taxes paid by local subsidiaries remitting dividends (with full implementation of this provision in 2024)
- Establish a temporary accelerated depreciation regime under which taxpayers could claim 50% bonus depreciation for the value of fixed assets acquired before December 2021 for new investment projects and allow taxpayers to deduct 50% of the price in the same year of acquisition
- Establish a new regime for small businesses
- Create a new 40% income tax bracket for high-income Chilean individual taxpayers
- Require that Chilean private funds have a minimum of eight participants, with none of them holding more than 20% of the shares, to benefit from private fund tax treatment

From a procedural perspective, the bill also would frame taxpayer rights and establish deadlines applicable to the Chilean IRS in administrative audit procedures. In addition, it would simplify the rules for submitting evidence in judicial audits.

The general anti-avoidance rules and the definition of "preferential jurisdiction" currently included in the Chilean legislation would remain without changes.

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