

15 April 2020

# Global Tax Alert

News from EY Americas Tax

## Chilean labor legislation amended due to COVID-19 pandemic

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On 6 April 2020, Chile enacted employment measures to mitigate the spread of COVID-19. On 2 April 2020, Chile also enacted the Remote Work Law, after months of discussion, which was accelerated with the COVID-19 pandemic.

### Employment measures

The employment measures consist of allowing the suspension of employment contracts and reduced work schedules.

If the Government enacts a mandatory quarantine, curfew or other restrictions that make it impossible for a company to conduct its activities and its employees cannot perform their services, a mandatory employment suspension will be triggered. While the suspension is in place, the company does not have to pay remuneration to its employees.

Companies that are not completely locked down as a result of Government-imposed restrictions but are still impacted by the COVID-19 situation may agree to suspend their employment contracts. Like companies that are completely locked down, these companies will not have to pay remuneration to their employees or pay for benefits, and the employees will not have to provide services.

Under the new law, if an employment contract is suspended:

- ▶ Remuneration for the unpaid periods will be partially covered by unemployment insurance
- ▶ Companies must continue paying social security contributions, including the employee portion, with the exception of work accident and disease insurance coverage

Companies may negotiate reduced work schedules with their employees and a proportional decrease in remuneration if they are: (i) subject to Value-Added Tax and have decreased sales of more than 20% in three months; (ii) under an insolvency procedure (i.e., a restructuring under the bankruptcy procedure); or (iii) excluded from the lockdown but still need to reduce working hours to continue functioning. The law caps reduced work schedules at 50% of the standard work schedule (and thus 50% of the remuneration), and the reduced work schedule may be in effect for up to five months. Loss of remuneration would be partially covered by unemployment insurance.

## Remote Work Law

In general terms, the Remote Work Law defines remote work as the provision of services totally or partially from home or any other place different from the company's premises, and work provided or reported from those different places through technological tools. Remote work may be subject to the regular working hours rules, but the new law allows the parties to agree to more flexible schedules or agree to an exemption from working hour limits with workers being entitled to 12 hours of uninterrupted rest daily, among other benefits.

The parties must agree to remote work as part of the employment contract or annexes that include special clauses established by law. The employer should provide the tools required to conduct the services remotely and cover the cost of the operational expenses incurred from performing the services. Employers must inform remote workers about the appropriate work environment for health and safety purposes, and the Chilean Government must issue a safety and health regulation for this mode of work.

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