

DOING BUSINESS IN CHILE

2014



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DOING BUSINESS IN CHILE

JANUARY 2014

INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) on behalf of BDO Member Firms and their 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 Member 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 indicated below.

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CHILE

This chapter is based on information available up to 1 January 2014.

Introduction

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.

1. Corporate Income Tax

1.1. Type of tax system

Business income derived by an enterprise is subject to business income tax (*impuesto de primera categoría*).

Thereafter, business income distributed to the enterprise’s owners is also subject to income tax, whether residents (*impuesto global complementario* - individual income tax) or non-residents (*impuesto adicional* - non-resident income tax). However, the tax paid by the enterprise can be used as a credit against the owners’ tax liability (see example below). A special ledger (*Fondo de Utilidades Tributables*, FUT) is required to keep track of retained profits and the corresponding tax credit.

Dividends and other profit distributions from resident companies are not subject to business income tax. Profit distributions from resident companies other than joint-stock companies derived by individuals or non-residents are not subject to tax (individual income tax or non-resident income tax, as the case may be) if they are re-invested in other enterprises (until distribution by the enterprise receiving the investment).

Example

(Based on the business income tax rate of 20%; see section 1.6.)

Enterprise’s taxable income	1,000
Business income tax (20%)	(200)
To be distributed	800
Dividend received by a resident individual	800
Gross-up (business income tax added back)	200
Taxable base	1,000

Individual income tax 40% (individual income tax progressive, 0%-40%)	400
Business income tax credit	(200)
Individual tax payable	200

The same system is applicable to non-residents, i.e. tax paid by the enterprise is also creditable against the non-resident withholding tax on dividends, profits distributions or remittances.

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. In general, Chilean-source income is income from assets located in Chile or activities carried out therein.

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. The computation of annual income is generally based on the taxpayer's accounting records.

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);
- capital contributions received by companies from their shareholders or partners, 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;
- distributions 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, provided that the investment is registered with the tax administration; 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 paid by Chilean joint-stock companies, *see* section 2.2. (such dividends are normally subject to individual income tax or non-resident income tax as the case may be); and
- certain capital gains from the alienation of shares (*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 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.

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;

- capital expenditures;
- compensation for personal services of the taxpayer's spouse or unmarried children under the age of 18; and
- fees paid by a partnership to a partner for independent personal services.

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. However, in the case of joint-stock companies and permanent establishments of foreign enterprises, these expenses are subject to a single tax at the rate of 35%. (This rule also applies to other taxpayers required to report income on accounting records. If the "hidden distribution" is made to taxpayers of individual income tax or non-resident income tax, among others, the expense is taxed in the hand of the recipient increased with 10% of the amount.)

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.

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

<i>Type of asset</i>	<i>Years</i>
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.

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 or in the case of “habitual” transactions as defined by the law.

Capital gains may also be subject to special taxation, i.e. subject to a final tax, or not considered to be taxable income (*see* section 1.7.3.).

1.4.1. Immovable property

Capital gains arising from the alienation of immovable property that is part of the assets of a person subject to business income tax on actual net income 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).

1.4.2. Shares

Capital gains from the alienation of shares are 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 are subject to a flat 20% tax (*impuesto único a la renta*) and the income is not subject to a further individual income tax or non-resident income tax.

However, capital gains from the alienation of shares acquired before 31 January 1984 are not 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 monthly tax units or ten annual tax units.

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

1.5. Losses

1.5.1. Ordinary losses

Losses are deductible and may be set off against undistributed profits. If the profits are not sufficient to offset the losses, the losses may be carried forward indefinitely.

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

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

There are no special rules for capital losses.

1.6. Rates

1.6.1. Income and capital gains

The rate of the business income tax is 20% (Law 20,630 effective 1 January 2013).

From the fiscal year 2004 to 2010, the rate of the business income tax was 17%. Under temporary rules provided by Law 20,455 to finance the reconstruction upon the earthquake and tidal wave of 27 February 2010, the rate referred to was previously set at:

- 20% for income arising in 2011;
- 18.5% for income arising in 2012; and
- 17% for income arising in 2013 onwards.

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 Statute (Decree Law 600)*

The Foreign Investment Statute has been the main regulatory law for foreign direct investment in Chile for the last 30 years. Under this statute a foreign investor may sign a contract with the Chilean State, under which the following rights may be granted:

- a non-discriminatory legal regime;
- the option to pay an effective fixed overall tax rate of 42% on taxable income for a period of 10 years, or 20 years in the case of industrial and extractive investments of USD 50 million or more, instead of the general rate of non-resident income tax of 35%. Investors may opt out of this mechanism at any time and pay the non-resident income tax at the applicable rate at the time of the opt-out; the opt-out is, however, irrevocable; and
- the possibility to freeze the existing rate of VAT (for a limited period of time) for goods imported into the country 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:

- 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 mutual investment 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 mutual investment fund.

Institutional investors

Capital gains from the alienation of shares are also exempt from tax when derived by institutional investors constituted abroad and not domiciled in Chile and that comply with other legal requirements (e.g. mutual funds or pension funds), provided that:

- the gains are realized through the alienation of shares of a resident open joint-stock company whose shares are 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 are realized from the redemption of units in mutual funds.

The fund may not have participation in the control of the companies that issued the securities, must hold less than 10% of their capital and must be entitled to less than 10% of the profits of those companies.

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

See also section 1.7.4.

1.7.4. Investment funds

Law 20,712 (*Ley unica 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 will generally become effective when an executive decree is issued (i.e. on the 1st day of the 2nd month following the issue), which should be done within a 6-month period. However, different provisions provide for specific deadlines for their entry into force (e.g. a year after the decree issue).

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 investment funds in general, the current tax treatment applicable for foreign investors in foreign capital investment funds, i.e. final income tax at the rate of 10% on fund earnings (see section 1.7.4.1.), becomes applicable to foreign investors in all types of investment funds constituted under the new law;
- for investment 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;

- the provision of fund administration services to foreigners is subject to VAT zero rate; and
- the fund administrator remuneration for the administration of housing funds is exempt from VAT.

1.7.4.1. Foreign investment funds

Foreign investors may 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 be maintained in Chile for at least 5 years to enjoy this benefit.

1.7.4.2. Investment funds

Gains from the transfer on a stock exchange of units in investment funds (purchased after 19 April 2001) regularly quoted on a stock exchange are excluded from taxable income.

Gains from the transfer on a 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.

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.

1.7.4.3. Risk capital companies

In the case of capital gains from the alienation of shares in "risk capital companies" (venture capital companies), the following regimes apply (provided the applicable conditions are met):

- amounts received by participants in venture capital investment funds are not considered income for tax purposes if they correspond to capital gains derived by the investment fund from the alienation of shares of joint-stock companies which are not traded on the stock exchange;
- shareholders of the companies mentioned above, when calculating their capital gains from the alienation of shares subject to income tax, may take as their acquisition cost the highest amount paid by an investment fund in the most recent placement of first-issue shares by the company before the alienation of shares; and
- receipts derived by participants in investment funds are not considered income for tax purposes if they correspond to amounts derived by the investment fund, under a specific formula, from the alienation of shares of joint-stock companies.

1.7.5. 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 are not subject to income tax in Chile).

1.7.6. Research and development credit

With effect from April 2008 until 2017, business income tax 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 an unrelated research centre (which must comply with certain conditions) for an amount exceeding 100 UTMs.

The credit is 35% of payments made in the tax year under the R&D contracts. The annual credit is limited to the lesser of 15% of the taxpayer's gross receipts or 5,000 UTMs. Payments exceeding the maximum annual credit are deductible expenses. Any excess credit may be carried forward.

1.7.7. 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.

1.7.8. Benefits for reconstruction gifts

Law 20,444 grants tax credits and other benefits for gifts made 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:

- payers of business income tax that report their income on a balance sheet and full accounting records: (i) may deduct from taxable income gifts in money made to the fund (a 3-year carry-forward period applies), and (ii) may also deduct the updated cost of similar gifts in kind up to the higher of their taxable income or 0.16% of their own capital at the end of the year (gifts in kind are also exempt from import duties and VAT (zero-rated));
- non-resident payers of income tax may credit 35% of their gifts made in the same tax year (23% for specific projects) against the tax levied on dividends, profit distributions and remittances.

1.7.9. *Special regime from income from bonds*

Capital gains derived from the placement or disposal of bonds are subject to a special tax regime. Eligible bonds must be (i) issued in Chile by payers of business income tax that report their income on the basis of full accounting records, (ii) registered in the Register of Securities, (iii) accepted for quotation by at least one Chilean stock exchange and (iv) placed for a price equal to, or above, the face value specified in the placement contract. Bonds issued by the central bank or the Treasury and listed by the Finance Minister are also eligible.

On a transfer of eligible bonds, the income corresponding to that part of the face value of the bonds which exceeds the purchase price paid in the stock exchange (as adjusted for inflation) is excluded from taxable income, provided the transferor complies with certain additional requirements. The amount received which exceeds the price paid for a purchase in the stock exchange but not the face value is also excluded from income taxation.

The income from bonds is taxed upon accrual. Interest is deemed to accrue in each taxable year, starting with the year in which the bond is placed and up to its payment. Advance payment or redemption of eligible bonds is treated as interest to the extent that the amount received exceeds the face value of the debt. This interest is accrued in the year of the payment or redemption.

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.

Generally, requests for guidance 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 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.).

There is also a special regime for enterprises carrying out certain activities below a certain sales level (e.g. agricultural, mining and land transport businesses), whereby the tax base can be calculated, if the taxpayer so chooses, on estimated income (presumptive regime).

A simplified regime is available for certain small business income tax taxpayers (individuals entrepreneurs or limited liability individual companies) that calculate their taxable income on the basis of complete accounting records and meet specific conditions. According to this regime, taxpayers are subject to business income tax and individual income tax or non-resident income tax, as the case may be, on the difference between all receipts and expenses, without considering their source or whether they are taxable or exempt under other income tax rules.

In addition, small business taxpayers that report their actual income on full accounting records may be exempt from business income tax if:

- their receipts, plus the receipts of related persons using the same regime, in the calendar year do not exceed the value of 28,000 UTMs;
- they do not hold or exploit at any title company participations or stock shares and are not involved in informal associations; and
- their own capital does not exceed the value of 14,000 UTMs.

The taxable net income of taxpayers covered by this regime, as reduced by amounts withdrawn, distributed or remitted abroad, is exempt from the business income tax up to the value of 1,440 UTMs.

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%.

Previous to Law 20,469, mining companies whose annual sales exceed the equivalent value of 50,000 metric tons of fine copper were taxed at the flat rate of 5%. Under Law 20,469, which had effect from tax year 2010 for taxpayers who accepted changes to the terms of their investment contracts or commenced activities on or after 21 October 2010; and from tax year 2011 for other taxpayers:

- miners 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%;
- foreign investors, and enterprises that receive foreign investments, are not subject to the new 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 have concluded a contract with the government under Law 20,026, could opt for a 3-year net extension of their contract, as follows:

- for tax years 2010, 2011 and 2012, they paid the tax under a special tariff which considers the “mining operational margin” and varies from 4% to 19.5%. These 3 years are not deducted from the contractual period; and
- with effect from 2013, during the last 3 years of the original contract and 3 additional years, the old rules and rates introduced by Law 20,026 apply.

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.

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 108.5 development units (the employee 0.6% of that part of the salary with the same cap, and the state 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 and is currently 1.26%. 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

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 rate is 1.4% for urban property and 1% for rural property. In the case of dwellings, the rate is 1.2% on the part of the cadastral value not exceeding a certain limit and 1.4% on the remaining part.

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 only if the property is leased for an annual rent representing at least 11% of the cadastral value. Non-creditable immovable property tax is deductible for income tax purposes.

6. International Aspects

6.1. Resident companies

Companies incorporated in Chile are generally 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.

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.

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, and on income accrued or remitted by permanent establishments located abroad. 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 on the foreign-source income or the foreign tax effectively paid.

In respect of taxes paid on dividends and profit distributions, the credit is limited to the lesser of 30% of the foreign-source net income (calculated as provided by the law) 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 to the extent that the source country does not apply withholding tax on dividends or applies a withholding tax at a lower rate than the business income tax. Furthermore, the income tax paid by a company on the profits distributed to the company that remits such profits to Chile may also be credited, provided that both companies are domiciled in the same country and at least 10% of the capital of the first-mentioned company is owned by the company remitting the profits.

The foreign tax credit can be carried forward in certain cases. 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 of up to 30% is granted with respect to all income referred to in the tax treaty. For the list of tax treaties in force, *see* section 6.3.5.

On 14 January 2014, Bill 8874-05 was approved by the Congress, introducing, *inter alia*, amendments to the foreign tax credit. Once the relevant law enters into force, effective from 1 January 2014:

- it is clarified that the indirect foreign tax credit is granted with respect to taxes paid by subsidiaries of the company remitting the profits to Chile, provided that all the companies are domiciled in the same country and at least 10% of their capital is directly or indirectly owned by the company remitting the profits;
- in addition, the maximum foreign tax credit will be increased from 30% to 35% with respect to countries with which there is a tax treaty, and from 30% to 32% with respect to other countries; and
- the excess of foreign tax credit will be carried forward without limit.

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.

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.

A permanent establishment (PE) of a non-resident person operating in Chile is subject to income tax on its 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'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.

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 (e.g. in the case that the income is derived by a joint-stock company and in the case that the income exceeds 11% of the cadastral value). The income is also subject to non-resident income tax at the general rate with a credit for the business income tax paid. Income from non-agricultural immovable property not exceeding 11% of the cadastral value may be subject only to non-resident income tax; the taxpayer may choose to be subject to tax on its net income or on a presumed income equal to 7% of the cadastral value.

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

Dividends and other profit distributions from resident companies derived by non-residents are subject to non-resident income tax at the general rate. The business income tax paid by the resident company paying the dividends or making the distribution is creditable against the non-resident income tax. 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 and other profit distributions derived by non-residents are subject to a final withholding tax (non-resident income tax) at the rate of 35% on the gross amount. The business income tax previously paid is creditable against the non-resident income tax.

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. 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.):

- 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*).

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: (i) is incorporated, domiciled or resident in a country included in the tax haven list (see section 7.5.1.); (ii) holds or participates directly or indirectly in 10% or more of the capital or of the profits of the payer or debtor; or (iii) if creditor and beneficiary are under a common control of a partner or shareholder that holds or participates directly or indirectly in 10% or more of their capital or profits.

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, stor-

age, 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 also applies to amounts paid in the case of exportable goods and services, 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.

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 (i) is incorporated, domiciled or resident in a country included in the tax haven list (see section 7.5.1.); (ii) holds or participates directly or indirectly in 10% or over of the capital or of the profits of the payer or debtor; or (iii) if creditor and beneficiary are under a common control of a partner or shareholder that holds or participates directly or indirectly in 10% or more of their capital or profits.

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. Treaty Withholding Rates Table

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 (for the treaty with Argentina, see below).

	<i>Dividends</i>		<i>Interest</i>	<i>Royalties</i>
	<i>Individuals, companies</i>	<i>Qualifying companies¹</i>		
	<i>(%)</i>	<i>(%)</i>	<i>(%)</i>	<i>(%)</i>
Domestic Rates				
<i>Companies:</i>	35	35	4/35	15/20/30
<i>Individuals:</i>	35	n/a	4/35	15/30
Treaty Rates				
<i>Treaty With:</i>				
Australia ²	15	5 ³	5/15 ⁴	5/10 ⁵
Belgium	15	0 ⁶	5/15 ⁷	5/10 ⁵
Brazil	15	10	15	15
Canada	15	5/10 ⁸	10/15 ⁹	10 ¹⁰
Colombia	7	0	5/15 ¹¹	10
Croatia	15	5 ¹²	5/15 ¹¹	5/10 ⁵
Denmark	15	5	5/15 ⁹	5/10/15 ¹³
Ecuador	15	5	5/15 ⁹	10/15 ¹⁰
France	15	15	5/15 ⁷	5/10 ⁵
Ireland	15	5 ¹²	5/15 ⁷	5/10 ⁵
Korea (Rep.)	10	5	5/15 ⁹	5/10/15 ¹³
Malaysia	15	5 ¹²	15	10
Mexico	10	5 ¹²	5/10/15 ¹⁴	10/15 ¹⁰
New Zealand	15	15	10/15 ¹¹	5 ¹⁵
Norway	15	5	5/15 ⁹	5/10/15 ¹³
Paraguay	10	10	10/15 ¹¹	15
Peru	15	10	15	15
Poland	15	5 ¹²	5/15 ⁹	5/10/15 ¹³
Portugal	15	10	5/10/15 ¹⁶	5/10 ⁵
Russia	10	5	15	5/10 ⁵
Spain	10	5 ¹²	5/15 ⁷	5/10 ⁵
Sweden	10	5 ¹²	5/15 ¹¹	5/10 ⁵
Switzerland	15	15	5/15 ⁷	5/10 ⁵
Thailand	15	15	5/15 ¹¹	10/15 ¹⁷
United Kingdom	15	5 ¹²	5/15 ⁷	5/10 ⁵

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. Generally, effective from 1 April 2013 (Australia) and 1 January 2014 (Chile).
3. The 5% rate applies with respect to participations of at least 10% of the voting power.
4. The 5% rate applies to interest derived by financial institutions.
5. The lower rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment.
6. The 0% rate applies with respect to participations of at least 10% of the capital.
7. 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.
8. 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 (this rate is 5% under the Chile-Mexico treaty).
9. By virtue of a most-favoured nation clause applied by reason of the treaty between Chile and Spain, 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.
10. By virtue of a most-favoured nation clause applied by reason of the treaty between Chile and Spain, the 15% rate under the treaty is reduced to 10%.

11. The lower rate applies to interest from loans granted by banks and insurance companies.
12. The rate applies with respect to participations of at least 20% of voting power or capital, as the case may be.
13. The 5% rate applies to royalties from the use of, or right to use, any industrial, commercial or scientific equipment. By virtue of a most-favoured nation clause applied by reason of the Chile-Spain treaty, the 15% general rate under the treaty is reduced to 10%.
14. The rate under the treaty is 15%. However, by virtue of a most-favoured nation clause (Protocol, para. 3), applied by virtue of the treaty between Chile and Spain, the rate is reduced to 5% for interest from loans granted by banks 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.
15. By virtue of a most-favoured nation clause, the 10% rate under the treaty is reduced to 5%.
16. 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.
17. 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.

7. Anti-Avoidance

7.1. General

Chilean tax law does not feature a general substance over form provision. Nevertheless, the tax authorities are authorized to challenge fictitious transactions.

7.2. Transfer pricing

Transfer pricing rules are provided for transactions between related parties, including dealings between PEs and head offices or other PEs of the same enterprise.

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:

- (a) if one person participates (directly or indirectly) in the management, control or capital of the other person;
- (b) if the same person(s) participate(s) directly or indirectly in the management, control, capital, profits or receipts of two parties;
- (c) a PE, with respect to its head office and other PEs of the same enterprise;
- (d) 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;
- (e) 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
- (f) 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

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.

These interest payments are generally subject to a withholding tax at the rate of 4%. However, when the debt/equity ratio exceeds the 3:1 threshold, the excessive amount of interest is subject to tax at the rate of 35%.

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. The thin capitalization rules apply to income paid or remitted from 19 June 2001, but not to financial entities approved by the Ministry of Finance or to multilateral international financial bodies.

7.4. Controlled foreign company

Chilean tax law does not contain CFC rules.

7.5. Other anti-avoidance rules

7.5.1. Low-tax jurisdictions

In 2003, the Finance Ministry established a list of countries considered tax havens. 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;

- 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; 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, whose alienation to a Chilean resident or domiciled person or person incorporated in Chile entitles that person, directly or indirectly, to a participation in the ownership or profits of another company incorporated in Chile, 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 goods 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 goods; persons furnishing services, habitually or otherwise; and in general persons carrying out transactions subject to VAT, including construction enterprises with respect to the sale of immovable property that is owned and built by those companies totally or partially by a third party on its behalf, 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 in the case of the construction enterprises described in section 8.2., or the transfer of rights with respect to those goods, provided that the vendor is a taxable person. 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 transaction.

8.4. Taxable amount

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.

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

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.

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; 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 in various special cases that encompass capital goods included in an investment project subject to the Foreign Investment Statute, and capital goods not produced in Chile and included in a similar Chilean investment project considered to be in the national interest;
- 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; and
- commissions charged for the administration of voluntary pension contributions and deposits in authorized voluntary pension saving schemes.

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:

- with effect from 1 January 2013, the rate is 0.033% of the value of the document for each month of the loan's term up to a maximum of 0.4%. In respect of documents representing debt-claim transactions without maturity, i.e. payable on sight (e.g. bank credit lines), the tax rate is 0.166% of their value.

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 (from 13% to 27%), depending on the alcohol content;
- 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);
- tobacco is subject to tax at different rates depending on the product (i.e. cigars 52.6%; cigarettes 0.0001288030 monthly tax units per cigarette plus 60.5% on sale price to customer inclusive of taxes; processed tobacco 59.7%); and
- 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.

CHILE

This chapter is based on information available up to 1 January 2014.

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.

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, the husband also reports any income derived from marital property.

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, 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 are 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, provided that the investment is registered with the tax administration;
- pensions from foreign sources;
- 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;
- capital gains from the alienation of shares acquired before 31 January 1984; and
- other capital gains from the alienation of shares and securities (see Corporate Taxation sections 1.4. and 1.7.).

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;

- 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 monthly tax units and 10 annual tax units; 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.

Business income derived by individuals or sole proprietorships is generally subject to business income tax according to the rules described in Corporate Taxation, 1.3. There is also a presumptive regime available for taxpayers carrying on certain activities (e.g. agricultural, mining, and land transport) and with sales below a certain level, where the taxable base is calculated on the basis of estimated income. In addition, a simplified regime is available for certain small business income tax taxpayers (individual entrepreneurs or limited liability individual companies) that calculate their taxable income on the basis of complete accounting records and meet specific conditions. According to this regime, taxpayers are subject to business income tax and individual income tax or non-resident income tax, as the case may be, on the difference between all receipts and expenses, without considering their source of whether they are taxable or exempt under other income tax rules.

1.5. Investment income

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

Resident individuals may credit against the individual income tax 15% of certain of the year's registered net investments (i.e. investments less withdrawals) with financial institutions and defer the payment of income tax on those investments until withdrawal. Eligible investments include deposits and savings accounts with financial institutions, mutual fund shares and certain securities. If the person has net investments for 4 consecutive years, subsequent annual withdrawals, up to a limit of 10 annual tax units, are not subject to tax. Withdrawals exceeding that limit are subject to tax at the rate of 15%.

1.5.1. Dividends

Dividends and other profit distributions are included in the individual income tax taxable base. However, business income tax paid by the company on the underlying profits is creditable against the tax imposed on the distributions. The income is grossed up when computing the tax, i.e. the business income tax paid on the business income out of which dividends and profits are distributed is also included in the taxable base. The tax rate is applied on total income and the business income tax is credited against the tax due.

Example

Enterprise's taxable income	1,000
Business income tax (20%)	(200)
To be distributed	800
Dividend received by a resident individual	800
Gross-up (business income tax added back)	200
Taxable base	1,000

Individual income tax 40% (progressive, 0%-40%)	400
Business income tax credit	(200)
Individual tax payable	200

Sole proprietorships, non-residents or non-domiciled persons with a permanent establishment in Chile and partners of companies (except joint-stock companies) deriving profit distributions from such enterprises, permanent establishments or companies and that reinvest them in another enterprise within 20 days are not subject to individual income tax or non-resident income tax (until subsequent distribution by the receiving enterprise).

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

Income from agricultural immovable property is subject to business income tax under general rules. The owner or usufructuary may deduct the immovable property tax paid from the business income tax. Under certain circumstances business income tax may be paid on estimated income that is presumed, without right of rebuttal, to be 10% of the cadastral value in the case of the owner or usufructuary, or 4% in other cases.

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, is subject to business income tax and individual income tax under the general rules. Income is exempt from business income tax, but subject to individual income tax, if it does not exceed the 11% threshold and is derived by the owner or usufructuary. In this case, income is presumed to be 7% of the cadastral value, but the taxpayer may choose to be taxed on actual net income.

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 or disposition of fixed assets or in the case of “habitual” transactions as defined by the law.

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

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

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

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

- the alienator does 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 are 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 is not the case, capital gains are subject to tax (business income tax and individual income tax or non-resident income tax) under the general rules.

1.6.2. Shares

Capital gains from the alienation of shares are 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 always 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 are subject to a flat tax at the rate of 20% (*impuesto único a la renta*) and the income is 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 are not 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 monthly tax units or ten annual tax units.

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

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

Taxpayers may credit a certain percentage of gains derived from the redemption of shares in certain investment 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.

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. If this is the case, losses are deductible and may also be set off against profits that have not been distributed. If the profits are not sufficient to offset the losses, the losses may be carried forward indefinitely. If losses are set off against non-distributed profits, the business income tax paid on such profits is treated as an advance payment and may be set off against income taxes (business income tax, individual income tax or non-resident income tax) or refunded.

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:

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
120 - 150	35.5
Over 150	40

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 (50 “development units” (*unidades de fomento*) per month).

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 72.3 development units for 2014.

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 from 1.14% to 2.36%);
- 7% for health insurance;
- 1.49% for the financing of disability and life insurance. The premium is payable by employers irrespective of the number of workers.

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: both the employer (2.4% of the part of the salary not exceeding 108.5 development units in 2014) and the employee (0.6% of that part of salary with the same cap), and the state (18,816 tax units per month) must contribute to finance this insurance.

Employers must withhold and pay the contributions.

3.2. Self-employed

Social security and health contributions are compulsory for self-employed persons. 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 72.3 development units.

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 is levied on an annual basis on urban or rural immovable property. 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 rate is 1.4% for urban property and 1% for rural property. In the case of dwellings, the rate is 1.2% on the part of the cadastral value not exceeding a certain limit and 1.4% on the remaining part.

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 only if the property is leased for an annual rent representing in the aggregate at least 11% of the cadastral value. Non-creditable immovable property tax is deductible for income tax purposes.

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/adoptive descendant/ascendant)	- 50 tax units (in case of decedent's recipient)
	- 5 tax units (in case of donor's recipient)

Recipient's relationship	Exemption
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. Tax 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 to taxpayers subject to business income tax, with respect to foreign dividends or profit dis-

tributions, royalties and technical assistance fees received, and on income accrued or remitted by permanent establishments located abroad. 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 on the foreign-source income or the foreign tax effectively paid.

In respect of taxes paid on dividends and profit distributions, the credit is limited to the lesser of 30% of the foreign-source net income (calculated as provided by the law) 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 if the source country does not apply withholding tax on dividends or applies a withholding tax at a lower rate than the business income tax. Furthermore, the income tax paid by a company on the profits distributed to the company that remits such profits to Chile may also be credited, provided that both companies are domiciled in the same country and at least 10% of the capital of the first-mentioned company is owned by the company remitting the profits.

The ordinary credit method is generally also used in comprehensive tax treaties concluded by Chile. In this case, a credit of up to 30% is granted with respect to all income referred to in the tax treaty.

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

On 14 January 2014, Bill 8874-05 was approved by the Congress, introducing, inter alia, amendments to the foreign tax credit. Once the relevant law enters into force, effective from 1 January 2014:

- it is clarified that the indirect foreign tax credit is granted with respect to taxes paid by subsidiaries of the company remitting the profits to Chile, provided that all the companies are domiciled in the same country and at least 10% of their capital is directly or indirectly owned by the company remitting the profits;
- in addition, the maximum foreign tax credit will be increased from 30% to 35% with respect to countries with which there is a tax treaty, and from 30% to 32% with respect to other countries; and
- the excess of foreign tax credit will be carried forward without limit.

For a list of tax treaties in force, *see* Corporate Taxation section 6.3.5.

6.2. Expatriates

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).

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-residents*

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*).

Any business income tax previously paid with respect to the income 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 example in section 1.5.1.).

However, there are various specific non-resident income tax rates, depending on the type of income.

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 20% 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%. However, the rate is 20% if (i) the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list; (ii) if the creditor or beneficiary holds or participates directly or indirectly in 10% or over of the capital or of the profits of the payer or debtor; or (iii) if the creditor or beneficiary is under the control of a partner or shareholder that holds or participates directly or indirectly in 10% or over of their capital or of their profits.

Income derived by 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.

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 and are subject to tax on their Chilean-source income. 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. The tax authorities have ruled that regional head offices of foreign companies established in Chile are not considered permanent establishments in Chile for tax purposes and thus are not subject to tax therein. A regional head office consists of a group of directors and managers who are employees of the foreign company and are established in Chile purposely to supervise and coordinate the policies of the group company (except with respect to permanent establishments in Chile). However, directors and managers are taxed in the same manner as resident individuals.

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 and other profit distributions derived by non-residents are subject to a final withholding tax (non-resident income tax) at the rate of 35% on the gross amount. Any business income tax previously paid by the company paying the dividend or profit distribution is creditable against the non-resident income tax.

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 (i) the creditor or beneficiary of the payment is incorporated, domiciled or resident in a country included in the tax haven list; (ii) if the creditor or beneficiary holds or participates directly or indirectly in 10% or over of the capital or of the profits of the payer or debtor; or (iii) if they are under the control of a partner or shareholder that holds or participates directly or indirectly in 10% or over of their capital or of their profits.

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* the withholding tax rates chart in the Appendix.

6.3.1.4. Capital gains

Capital gains derived by non-residents are generally subject to tax under 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: 1 January 2014

A. Companies	
1. Resident companies	
Corporate tax rates	20%
Tax base	worldwide
Capital gains	yes, part of business income; listed shares are exempt under conditions
Unilateral double taxation relief	yes
2. Non-resident companies	
Corporate tax rates	35%; 20% for PEs
Capital gains on sale of shares in resident companies	yes, part of business income (when paid abroad subject to 35% with a credit for the 20% paid)
Final withholding tax rates	
Branch profits	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; special regime for income from bonds
Anti-avoidance	transfer pricing; thin capitalization; list of low-tax jurisdictions

B. Individuals	
1. Resident individuals	
Income tax rates	progressive; top bracket 40% (over 150 annual tax units)
Capital gains	yes, part of business income (subsequently subject to individual income tax with credit for business income tax paid); gains on non-habitual immovable property transactions are exempt; listed shares are exempt under conditions
Unilateral double taxation relief	yes
2. Non-resident individuals	
Income tax rates	35% (business income tax paid is creditable)
Capital gains on sale of shares in resident companies	part of business income (when paid abroad subject to 35% with a credit for the 20% paid)
Final withholding tax rates	
Employment income	15%
Dividends	35% (business income tax paid is creditable)
Interest	35%, 4%
Royalties	30%, 20%, 15%, 0%
Fees (technical)	15% (20% under certain conditions)
Fees (directors)	15% (20% under certain conditions)
C. Other direct taxes	
Net wealth tax	no
Inheritance and gift taxes	yes
D. Turnover taxes	
VAT/GST (standard)	19%
VAT/GST (reduced)	0%
VAT/GST (increased)	no
Other	no

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