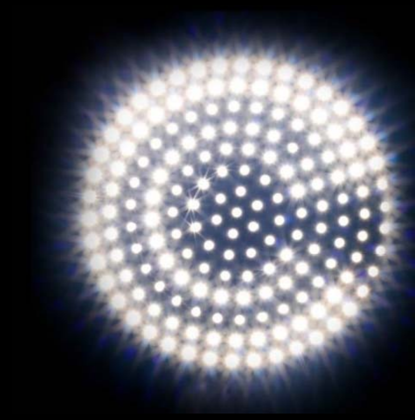
International Tax
Chile Highlights 2018



Investment basics:

Currency – Chilean Peso (CLP)

Foreign exchange control – Entities and individuals are free to enter into any kind of foreign exchange transactions, although there are reporting obligations on transactions that exceed USD 10,000 (or the equivalent in another currency).

Accounting principles/financial statements – IFRS applies. Financial statements must be filed quarterly.

Principal business entities – These are the corporation, company limited by shares, general partnership, limited liability partnership, limited partnership, individual enterprise with limited liability, association and branch of a foreign corporation.

Corporate taxation:

Residence – A corporation is resident/domiciled in Chile if it is incorporated in Chile.

Basis – Resident/domiciled companies pay Chilean income tax on their worldwide income. Taxpayers without a residence/domicile in Chile pay income tax on only their Chilean-source income. Remuneration paid from Chile to nonresidents/nondomiciled persons for services rendered abroad also is subject to Chilean income tax.

Taxable income – Taxable income is defined as gross income from worldwide sources and is calculated by deducting from total income the direct costs of goods and services and the necessary expenses incurred in earning that income.

Taxation of dividends – The taxation of dividends depends on the tax regime applicable to the distributing entity: the fully integrated regime or the partially integrated regime. The applicable regime depends on the type of entity, and certain default presumptions apply if an entity eligible for either regime has not opted into a regime. Chilean entities that are not owned exclusively by persons subject to final taxes (i.e. individuals resident in Chile and/or individuals or entities that are not resident in Chile) generally are not eligible for the fully integrated regime.

Shareholders of Chilean entities subject to the fully integrated regime (also referred to as the “attributed income regime”) are taxed when profits are accrued by the Chilean entity, irrespective of whether a dividend is actually paid. Individual resident shareholders are subject to a global complementary income tax at progressive rates that range from 0% to 35%. Nonresident/nondomiciled shareholders are subject to an additional withholding income tax of 35%. The corporate income tax paid on the profits attributed to the shareholder is creditable against the global complementary income tax/additional withholding income tax. Dividends paid out of profits previously attributed to the shareholders will not be subject to further taxation.

Dividends paid by Chilean entities subject to the partially integrated regime to resident individuals are subject to a global complementary income tax at progressive rates that range from 0% to 35% (distributions between Chilean entities that prepare full accounting records generally are not subject to income tax). Profits distributed abroad to nonresident/nondomiciled taxpayers are subject to an additional withholding income tax of 35%. For both resident and nonresident shareholders, 65% of the corporate income tax paid on the profits distributed is creditable against the final taxes payable, except for shareholders domiciled in countries with which an active tax treaty with Chile is place, for which 100% of the corporate income tax is creditable. Under a temporary measure in force until 31 December 2021, shareholders from countries with which a tax treaty with Chile was signed before 1 January 2019 also will be entitled to a 100% credit, even if the treaty has not entered into force.

Capital gains – Capital gains generally are taxed as ordinary income. Capital gains on the disposal of certain assets may be exempt from tax if certain requirements are met.

Losses – Tax losses may be carried forward indefinitely. The carryback of losses is not permitted. Tax losses are nontransferable and may be used only by the taxpayer that incurred the losses.

Rate – First category income tax is imposed at a rate of 25% under the fully integrated regime. Under the partially integrated regime, the rate is 27% as from 2018 (increased from 25.5%).

Surtax – In addition to the corporate income tax, either the global complementary income tax for individual residents or the additional withholding income tax for nonresident entities and individuals must be paid: for shareholders of entities subject to the fully integrated regime, the tax is payable on profits attributed to the shareholder, and for shareholders of entities subject to the partially integrated regime, the tax is payable on dividends distributed to the shareholder. A full or partial credit may be granted for the corporate income tax paid. See under "Taxation of dividends."

Alternative minimum tax – No

Foreign tax credit – Absent a tax treaty, income taxes paid abroad on foreign profits derived from companies in which a participation is held or a branch and from royalty payments, technical service fees, other income of a similar nature and exported services are creditable against Chilean income taxes. The credit is capped at 32% (dividends) or at the corporate income tax rate applicable to the Chilean taxpayer (royalties and branch income). In the case of income from tax treaty countries, a foreign tax credit is available for all foreign tax incurred in accordance with the terms of the treaty, capped at 35%.

Participation exemption – A special regime for Chilean publicly traded stock corporations and closely held stock corporations that voluntarily submit to the supervision of the Chilean SEC and that meet certain requirements has been repealed effective from 1 January 2022; as from 23 November 2017, no new companies can be admitted into the regime. Where the regime applies, qualifying entities are deemed not to be Chilean domiciled/resident for income tax purposes and, therefore, are exempt from tax on foreign income received. Dividends paid by such entities to shareholders that are not resident/domiciled in Chile are exempt from withholding tax.

Holding company regime – See "Participation exemption."

Incentives – Preferential tax regimes are available for businesses operating in specific regions and/or carrying out specific activities.

Withholding tax:

Dividends – See "Taxation of dividends."

Interest – Interest is subject to a 35% additional withholding income tax on the gross amount. A 4% reduced tax rate applies, *inter alia*, to interest on loans granted by a foreign bank or foreign/international financial institution and by an insurance company or pension fund that complies with certain registration requirements, provided the lender and borrower are unrelated. If the parties are related or deemed related, the thin capitalization rules must be observed.

Royalties – Royalty payments by the end user (no commercial exploitation) for the use of shrink-wrapped software are exempt from withholding tax. Payments for the use, enjoyment or exploitation of invention patents, computer programs, utility models, industrial designs and drawings, blueprints or topography of integrated circuits, and of new vegetable varieties, are subject to a 15% additional withholding income tax. The rate increases to 30% if the income beneficiary is resident in a jurisdiction with a preferential tax regime. Royalty payments in respect of trademarks, patents, formulae and other similar services are subject to a 30% additional withholding income tax.

Technical service fees – A 15% additional withholding income tax applies to payments made to nonresident/nondomiciled persons without a permanent establishment in Chile for technical and engineering works and professional or technical services that a nonresident/nondomiciled individual expert in a science or technique renders (in Chile or abroad) through advice, a report or a plan. The rate is increased to 20% if the beneficiary is resident in a jurisdiction with a preferential tax regime.

Branch remittance tax – A 35% additional withholding income tax applies; the taxable event depends on whether the branch is subject to the fully integrated regime or the partially integrated regime.

Under the fully integrated regime, the 35% tax applies when the profits attributable to the branch are accrued, with a credit granted for the 25% first category income tax paid by the branch. Subsequent remittances to the head office are not subject to further taxation.

Under the partially integrated regime, the 35% tax applies to the remittance of profits to the head office, with a full or partial credit granted for the first category income tax paid by the branch, depending on whether the head office is in a tax treaty country (see "Taxation of dividends").

Other – Services rendered abroad, other than technical services, etc., are subject to a 35% additional withholding income tax.

Other taxes on corporations:

Capital duty – While there is no taxable event upon the incorporation of a company, business entities must pay an annual municipal license fee. The fee ranges from 0.25% to 0.5% on tax equity, up to a maximum of approximately USD 500,000 (the cap varies in line with inflation and the exchange rate).

Payroll tax – Self-employed persons (professionals, directors of corporations, professional partnerships and others) and employees are subject to second category income tax charged at progressive rates that range from 0% to 35%. For employees, the tax is withheld by the employer. An employee whose entire income comprises employment income from one employer is not required to file a tax return, since the tax liability is satisfied by the second category income tax paid. Where an individual has other income and is required to submit a tax return, the second category income tax paid is credited against the final tax liability on the total income.

Real property tax – Real property tax is imposed at an annual rate of 1% on rural property and 1.2% on developed nonrural property. Nonrural residential property is subject to an annual rate of 0.98% on the cadastral value up to approximately USD 120,000, and 1.143% on the excess. Surcharges may apply.

Social security – The employer must make the following contributions for social security: (1) a monthly 0.95% premium on remuneration (capped at a floating amount calculated by reference to the UF, an inflation-adjusted monetary unit) in respect of labor-related accident insurance; (2) additional contributions that vary according to the risk of the employment activity, at rates up to a maximum of 3.4%; (3) a 2.4% compulsory unemployment insurance contribution on remuneration subject to the floating cap (3% for fixed-term contracts); and (4) a 1.41% premium for life and disability insurance.

Stamp duty – Foreign loans are subject to stamp tax, whether or not they are documented. The rate is 0.066% for each month or fraction thereof between disbursement and maturity, capped at 0.8%. Loans payable on demand or without a maturity date are subject to a 0.332% tax.

Transfer tax – No

Other – A tax on nondeductible expenses is applicable at a rate of 40%, unless the relevant expense benefits a shareholder or partner subject to the global complementary income tax or additional withholding income tax. If the expense benefits such a shareholder or partner, it is treated as a profit withdrawal, with the tax being increased by 10% of the nondeductible expense.

Anti-avoidance rules:

Transfer pricing – Chile's transfer pricing rules are in line with the OECD guidelines. The following methods may be used: comparable uncontrolled price, resale price, cost plus, profit split, comparable profit split and residual methods. The tax authorities may challenge and reassess transfer prices between related parties where the terms and conditions of transactions are not at arm's length.

Country-by-country reporting is required for certain multinational groups with a Chilean resident parent or other Chilean resident group entity.

Thin capitalization – Thin capitalization rules apply to related party loans, the interest on which: (1) is subject to the reduced 4% additional withholding income tax rate for interest paid abroad (i.e. loans granted by foreign or international banks or financial institutions); (2) is not subject to additional withholding income tax; or (3) is subject to an additional withholding income tax rate lower than 35% under a tax treaty or under domestic law. If the debt-to-equity ratio exceeds a 3:1 threshold, the excess interest is subject to an additional 35% tax payable by the borrower (reduced by any withholding tax paid on the interest). Certain third party financing is deemed to be related party financing.

Controlled foreign companies –The CFC rules require Chilean resident taxpayers to include in their current taxable income certain types of passive income earned by nonresident foreign entities that are deemed to be CFCs. A foreign entity will be considered a CFC if a Chilean taxpayer holds, directly or indirectly, 50% or more of the capital, profits or voting rights; can elect the majority of the directors; or has unilateral powers to amend the foreign company's bylaws. A foreign entity generally will be deemed to be controlled (irrespective of the participation or rights involved) if it is established, headquartered or resident in a low or no-tax country or territory (although companies established in OECD member jurisdictions will be excluded from this presumption).

In addition, for the CFC regime to apply, the foreign entity must earn income defined as "passive," which includes dividends, interest (unless the foreign entity is a bank or financial entity regulated in the relevant country), capital gains and royalties.

Disclosure requirements – Certain large taxpayers must file a sworn declaration with the tax authorities, in which they must disclose whether they have carried out certain transactions listed in the form. The types of transactions addressed may be considered related to aggressive tax planning.

Other – Under the general anti-avoidance rule, the tax authorities may request the tax court to declare that a transaction is abusive or artificial, in which case the tax authorities may disregard its effects.

Compliance for corporations:

Tax year – Calendar year

Consolidated returns – Chilean entities may not file consolidated returns, although some *de facto* consolidation methods exist.

Filing requirements – Chile operates a self-assessment regime. Companies are required to make monthly advance payments of tax, with the annual tax return filed in April of the year following the tax year.

Penalties – Penalties apply for late filing, failure to file, the underpayment of tax and tax evasion.

Rulings – Guidance may be obtained from the tax authorities on the tax consequences of a planned transaction.

Personal taxation:

Basis – Resident individuals are taxed on their worldwide income; nonresidents are taxed only on their Chilean-source income. Individuals not resident/domiciled in Chile are subject to withholding income tax on services rendered abroad and paid from Chile. However, foreigners are taxed only on Chilean-source income during their first three years of residence in Chile (although a three-year extension is permitted); thereafter, they are subject to taxation on a worldwide basis.

Residence – An individual is resident if he/she remains in Chile for six consecutive months in a calendar year, or for more than six months in total over two consecutive tax years. Depending on the circumstances, domicile can be obtained from the first day in the country.

Filing status – Joint filing generally is not permitted; however, spouses married under a community property system must file a joint annual tax return.

Taxable income – Employment income is subject to second category income tax, while investment income and profits earned from a business are subject to the global complementary income tax. The first category income tax paid by the business on the profits out of which the dividends are paid is creditable against the global complementary income tax.

Capital gains – Capital gains generally are taxed as ordinary income. Capital gains on the disposal of certain assets may be exempt from tax.

Deductions and allowances – Individuals may deduct interest paid on a mortgage for the construction or acquisition of a dwelling and pension and social security contributions. Parents are granted tax relief in the form of a tax credit against their personal taxes to represent expenses associated with the education of their children (primary and high school studies).

Rates – The individual income tax is charged at progressive rates ranging from 0% to 35%. Tax on income from employment is withheld by the employer on a monthly basis. Other income must be declared on an annual income tax return, although tax paid on employment income may be credited against the final income tax liability.

Other taxes on individuals:

Capital duty – No tax is payable by individuals on their total wealth or value or on specific assets, except for the real estate tax based on the value of property.

Stamp duty – See under "Other taxes on corporations."

Capital acquisitions tax – No

Real property tax – See under "Other taxes on corporations."

Inheritance/estate tax – Inheritance tax is levied on the net value of assets transferred at death, at rates that vary depending on the proximity of the relationship between the deceased and the recipient.

Net wealth/net worth tax – No

Social security – The main social security contributions borne by individuals are the 7% health insurance contribution and a 10% pension fund contribution, both capped at a floating amount. In the case of employees, the contributions are withheld by the employer.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – An annual income tax return must be filed in April of the year following the end of the tax year, and any tax due must be paid at that time.

Penalties – Penalties apply for late filing, failure to file, underpayment of tax and tax evasion.

Value added tax:

Taxable transactions – VAT is charged on domestic supplies of goods and services, and on the import of goods.

Rates – The standard VAT rate is 19%. Certain items are zero-rated or exempt.

Registration – Registration for VAT purposes is mandatory.

Filing and payment – A VAT return must be filed monthly, and the tax paid at that time.

Source of tax law: Tax Code, Income Tax Law, VAT Law and Stamp Tax Law, among others

Tax treaties: Chile has 32 active tax treaties, and two additional treaties have been signed that are not yet in force. Chile signed the OECD MLI on 7 June 2017.

Tax authorities: Chilean Internal Revenue Service

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