GLOBAL EXPANSION GUIDEBOOK

TAX

Chile

DLA PIPER

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Tax*.

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know.

The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, global equity and tax laws in key jurisdictions around the world.

TAX

Multinational companies continue to expand globally at an ever faster pace. Successful expansion depends, in part, on strategic and effective tax planning and compliance. This guide, brought to you by DLA Piper's Tax group summarizes the key features of tax laws in 41 popular jurisdictions.

This guide addresses common tax questions, by jurisdiction, including:

- Taxation of resident companies and non-resident companies
- Availability of tax holidays, rulings, and favorable tax regimes
- Ability to use losses to offset income
- Anti-deferral (ie CFC) rules
- Withholding taxes
- Employment tax issues

With more than 300 tax lawyers and economists in offices throughout the Americas, Europe and Asia Pacific, DLA Piper's global tax advisory services help multinational companies address the complex challenges of international commerce and business operations as well as manage and resolve tax audits. Our global tax group also assists clients in structuring a wide range of transactions, from private equity deals to corporate acquisitions and disposals. We provide these tax services across our global platform, while at the same time offering clients the benefits of the attorney-client and work-product privileges.

The information in this guide is an accessible, high-level summary of the tax laws in each jurisdiction. This is not a substitute for legal or tax advice. If you have specific questions or require detailed advice, we encourage you to contact one of the attorneys listed in the contributors section of this guide.

We hope that you find this guide valuable and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that tax law is dynamic, and the legal regime in the countries surveyed could change.

CHILE

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RESIDENCE AND BASIS FOR TAXATION

Any company incorporated in Chile is considered a tax resident. Likewise, an individual becomes a tax resident if they spend more than 183 days in the country during any 12 month period. Also, an individual can become a tax resident if they establish a domicile in the country in accordance with Civil Law provisions.

Basis for taxation of Residents

According to the Chilean Income Tax Law (CITL), tax residents are subject to Income Tax in Chile on their worldwide income.

Basis for taxation of Non-Residents

Non-residents are subject to tax solely on their Chilean-sourced income. However, individuals which become tax residents in Chile may still be taxed as non-residents for the 1st 3 years. Following said period, they shall start paying Income Tax in Chile on their worldwide income.

TAXABLE INCOME

Corporate Income Tax ("CIT")

The Chilean Income Tax Regime is structured as an imputation credit system in which CIT paid by companies may be used to offset the Personal Income Tax (PIT) or Withholding Tax arising for final shareholders on the dividends by companies subject to CIT.

CIT is paid by the entity on its income which must be assessed following Income Tax law pertinent provisions.

Domestic

The taxable income is assessed by computing gross income (turnover) less applicable deductions (costs and certain expenses).

Foreign ("Withholding Tax")

As a rule, withholding tax is imposed on the gross amount of the payments made abroad.

TAX RATES

The CIT rate is 25 percent for entities that qualify as small to medium enterprises (average yearly income up to USD4.2 million), which is the general rule. The rate is increased to 27 percent for larger enterprises.

Personal Income Tax

Individuals which are tax residents in Chile are liable to pay Personal Income Tax on an annual basis. The rates are progressive depending on the level of income earned each year and the maximum rate is 40 percent.

Value-added tax

Generally, value-added tax (VAT) applies to sale of goods and services, at a rate of 19 percent.

In general, Chilean VAT law contains minimal exemptions.

TAX COMPLIANCE

Corporate income tax returns must be filed before the end of April. Likewise, the company must submit monthly tax returns based on gross income obtained within a month.

ALTERNATIVE MINIMUM TAX

Not applicable for this jurisdiction.

TAX HOLIDAYS, RULINGS AND INCENTIVES

Tax holidays

Foreign individuals who are domiciled or resident in Chile will pay taxes in Chile only on their local income during the 1st 3 years following their settlement in Chile.

Tax rulings

Chilean tax authorities issue general rulings (*Circulares*) aimed to interpret, instruct, implement or clarify application of tax regulations. They are compulsory for the civil servants that work in the Chilean Tax Service (*Servicio de Impuestos Internos*, or the Chilean IRS).

Taxpayers may request the Chilean tax authorities to issue a specific ruling (*Oficio*) to determine the regulations and taxation applicable to particular operations. These rulings shed light on the application of tax regulations and could serve as precedent for other cases (they can even be used to argue a presumption of good faith for taxpayers).

Tax incentives

There are tax incentives for the activities performed by companies to foster economic development of certain types of activities and local economic growth.

VAT refund on fixed assets

Upon the fulfillment of certain conditions, Chilean legislation allows the recovery of carried-forward input VAT derived from the purchase of fixed assets.

VAT exemption on import of capital goods

Certain taxpayers can qualify for a VAT exemption on the import of capital goods destined for certain investment projects to be carried out in Chile (*eg*, Renewables Parks).

Reduced rate for interest paid by financial institutions abroad.

Interest paid to foreign banks, financial institutions, foreign insurance companies or foreign fund managers may qualify for a reduced 4 percent withholding tax rate.

CONSOLIDATION

Not applicable for this jurisdiction.

PARTICIPATION EXEMPTION

Intercompany dividend distributions (between Chilean tax residents) are exempt of CIT at the level of the recipient. Foreign dividends paid to Chilean companies are subject to CIT with the possibility of using foreign taxes to offset CIT liability.

CAPITAL GAIN

Capital gains derived from the sale of shares, corporate rights, immovable property and assets in general is subject to the Income Tax General regime, meaning CIT and PIT.

Domestic legislation releases from taxation capital gains derived from the sale of specific assets (*eg*, intellectual property sold by the author). There are additionally reduced rates due to the application of a Double Tax Convention in which Chile is a contracting state (*eg*, Spain and Portugal). Preferential rates may apply if there is a double tax treaty in force.

DISTRIBUTIONS

Profits distributed by corporate entities are treated as dividends for the shareholders and are subject to final taxes. Corporate Income Tax paid by the corporation is creditable against final taxes.

LOSS UTILIZATION

Net operating losses can be carried forward indefinitely to offset CIT liability. However, there are restrictions for the utilization of losses in case of change of ownership. Loss carryback is still possible when a company with losses receives dividends from a subsidiary. However, it will be terminated, progressively, from 2020 until 2024.

TAX-FREE REORGANIZATIONS

Chile has several tax-neutral regimes when certain operations (eg, mergers, spinoffs, contributions in kind and indirect sales)) are carried out within the context of a corporate group reorganization.

ANTI-DEFERRAL RULES

Under the controlled foreign company (CFC) rules, the passive income received or accrued by foreign controlled entities shall be included in the tax basis of Chilean controllers (proportionally) regardless of the existence of a distribution.

FOREIGN TAX CREDITS

Income tax liability arising from foreign-sourced income derived by Chilean residents can be offset with taxes paid abroad on such income (imputation of foreign tax credits).

SPECIAL RULES APPLICABLE TO REAL PROPERTY

Properties in Chile are subject to a real estate tax, which shall be paid each year in 4 installments (in April, June, September and November). The amount of the tax to be paid will depend upon the fiscal value of the property (*avalúo fiscal*) determined by the Chilean IRS. The rates vary depending on the qualification of the soil, type of construction and use of the land, capped at 1.4 percent in case of non-farming real estate and 1 percent for farming real estate, over the fiscal valuation of the property.

Nevertheless, there is a surtax on real estate which values exceed approximately USD530,000.

TRANSFER PRICING

Transactions between Chilean entities and their foreign related parties shall be at arm's length or otherwise the tax authority may be entitled to challenge prices fixed for such transactions and apply a 40 percent penalty tax.

Chile has domestic transfer pricing regulations and also follows the OECD Transfer Pricing Guidelines. standards.

WITHHOLDING TAX

The general WHT rate is 35 percent applicable to payments made to non-residents. Certain payments in exchange for services or other transactions may qualify for domestic reduced rates or for Double Tax Convention reduced rates.

CAPITAL DUTY, STAMP DUTY AND TRANSFER TAX

Credit operations (eg, granting of loans, issuance of bonds, or other operations the create a lender-borrower relationship) are subject to Stamp Tax. Generally it becomes chargeable upon the issuance of the document evidencing the credit operation or when it is accounted for by a Chilean entity if the document is issued abroad. Maximum rate is 0.8 percent imposed on the principal amount.

EMPLOYMENT TAXES

All employment income (eg, salaries, wages, allowances, bonuses, participations) are subject to payroll tax (*Impuesto Único de Segunda Categoría*). Said income is taxed according to a progressive scale ranging from exemption to 40 percent.

Employers shall withhold, file and pay this tax on behalf of the employee.

STAMP TAX

The stamp tax taxes documents or transactions involving a money lending operation (eg, loans, promissory notes, and any other document, even those dematerialized issued).

The stamp tax rates are:

- 066 percent of the document´s face value for every month or fraction of a month lapsed between its execution and maturity and may not exceed 0.8 percent.

- 332 percent of the document´s face value for the documents payable on demand or without a maturity date.

Non-payment of the stamp tax bans the execution of the debt before the Chilean Courts.

OTHER TAX CONSIDERATIONS

Municipal Tax

The carrying on of any business is levied with a Municipal Tax in Chile (although there are some specific exemptions) at the level of the entity conducting such business.

Municipal Tax payment is calculated annually and is payable in 2 installments each year. The rate depends on address and municipality, but it can vary from 0.0025 to 0.005 percent of the tax equity, determined the previous year (equity calculated for tax law purposes). In any case, municipal tax has a minimum payment of approximately USD65 and a maximum limit of approximately USD470,000.

Inheritance, gift and estate taxes

The Inheritance Tax contemplates a progressive rate of up to 25 percent, considering in certain cases surcharges or exempted amounts. The Donation Tax has the same progressive rate; however, its surcharges and exemptions have different conditions and lower ceilings.

SIGNIFICANT CHANGES IN TAX LEGISLATION

On February 4, 2022, came into force the Law N° 21,420, which "Reduces or Eliminates the Tax Exemptions indicated" modifying 9 legal bodies with different particular effective dates. Among other changes, it is worth mentioning the following:

1. Single tax rate of 10 percent on capital gains of transfer of publicly traded debt instruments (securities) or shares (in force in 6 months as of publication of the mentioned law).
2. Transitory reduction for 2 years and subsequent elimination of the Special VAT Credit for Construction Companies (CEEC).
3. Elimination of the tax benefits for the 3rd home from now on, for those who have acquired DFL 2 homes before 2011.
4. Affectation of VAT to all services, except for health, education, and transportation sectors, and for all taxpayers who issue fee receipts.
5. Inheritance tax for life insurances, which will affect all benefits obtained under life insurance contracts executed since the publication of the referred law.
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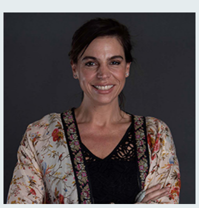

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