

# Chile

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## 1.0 OVERVIEW

Chile has a presidential system of government with a strong republican tradition, and a written political constitution. It is divided into 16 administrative regions which share some functions with the central government. Chile is regarded a regional leader due to a solid, stable democratic system that guarantees a safe business environment. Chile was ranked 23 out of 168 countries and territories surveyed in Transparency International's 2015 Corruption Perceptions Index.

Taxes on goods and services within the borders are levied according to the general principle of territoriality of law contained in article 16 of the Civil Code. The Chilean tax system contemplates direct and indirect taxes, where income tax and value-added tax (VAT) are relevant to businesses as well as others that will be addressed below.

The law establishes income taxes on companies and individuals residing or carrying business within our country. However, bilateral taxation treaties are a useful tool for avoiding double taxation when it comes to doing business in Chile. According to the Chilean government, Chile has signed 34 Conventions for the Avoidance of Double Taxation, of which 32 are in force as of 2018. There are agreements in force with Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, China, Croatia, the Czech Republic, Denmark, Ecuador, France, Ireland, Italy, Japan, Korea, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, the United Kingdom, Russia, Spain, South

Africa, Sweden, Switzerland and Thailand. Signed treaties with Uruguay and with the United States are not yet in force.

## 2.0 LEGAL SYSTEM

Chile has a modern constitution that dates back to 1980, enacted during the 1973–1990 military regime. In the past few decades, it has been amended several times. The political constitution of the state is the supreme law. Below the constitution, Chile has a civil law system similar to that one used in continental Europe, particularly France, Italy and Spain. Chile's civil law provides for effective means for enforcing property and contractual rights. The basic principles of civil law and predominant features in all contracts are 1) contractual freedom, 2) the contract has the force of law for all parties, 3) all contracts must be executed in good faith and 4) damage must be compensated according to the civil liability statute written in the civil code.

## 3.0 TAXATION AUTHORITIES

The main tax authority in the Chilean tax system is the *Fisco* (Treasury), which represents the interests of the state and is in charge of all tax collection through the *Tesorería General de la República*. Regarding tax rulings, inspections and law enforcement, an administrative entity called *Servicio de Impuestos Internos* (SII) is in charge of reviewing all taxpayers' tax forms filings and fulfillment of tax laws. Other entities are also involved in tax matters, such as municipalities and customs agencies.

## 4.0 BUSINESS VEHICLES

The incorporation of an investment vehicle in Chile, in any of its forms, is straightforward and relatively inexpensive. Registering and obtaining a Tax Identification Number from the SII is needed. Once the new company has registered with the SII, it is obliged to make monthly tax statements as of the following month. The process of registration is known as *Inicio de Actividades*. The types of business entities recognized by Chilean law are discussed below.

### 4.1 Limited liability partnership (*sociedad de responsabilidad limitada*)

- i. Nature of entity:** Limited liability partnerships are the most commonly used business entities in Chile. The liability of its members is limited and the entity is legally distinct from its partners. Accordingly, partnership losses cannot be offset against partners' other incomes.
- ii. Partners:** A minimum of two and a maximum of 50 partners are required. A partnership is automatically dissolved if there is only one partner. Total control of a limited liability partnership is achieved through ownership by related entities or a nominee partner. Foreign legal entities can be partners of a limited liability partnership.
- iii. Regulation:** Limited partnerships are not subject to the control of a regulatory authority or public agency and they are under no obligation to publish their accounts. The main source of regulation of a limited liability company is to be found in law 3,918, the Chilean

Civil Code and the Chilean Code of Commerce. Further, the scope of activities that can be undertaken by this type of entity is very broad. Corporate governance regulations are usually incorporated in the company's bylaws.

**iv. Incorporation, amendment and wind-up/dissolution:** Limited partnerships are incorporated through a deed directly by its partners or through a power of attorney. Said deed will contain the partnership's by-law, an abstract of which must be published in the Official Gazette and registered in the Commerce Registry. Any amendment or modification to the bylaws, including change of partners, modification of the corporate purpose or change to the powers of management, must be agreed by unanimous consent of all partners. Its partners may enter into a separate agreement, one similar to a shareholders' agreement, binding them to consent to bylaws amendments, sales of partnership interests or dissolution in the circumstances set out in the agreement.

**v. Management:** The partnership bylaws will establish how the partnership is to be managed. Management powers may be exercised by one or more of the partners, a board of directors or a third party.

**vi. Capital:** A partnership's capital is set out in the partnership bylaws and there is no requirement for a minimum amount. Capital contributions may consist of cash, property (including technology) or services to be provided to

the partnership. Capital may be increased or reduced by agreement of all partners and amendment of the partnership deed. Approval by the SII is required in the event of a reduction in the partnership's capital.

**vii. Limitation of liability:** The liability of partners is limited to the amount of their capital contributions to the partnership unless another amount is specified in the partnership deed.

**viii. Distribution of profits and loans to partners:** Annual profits may be distributed without recouping previous years' losses. Loans to partners are treated as distributions of profits.

## **4.2 Corporation or public limited company (Sociedad Anónima / S.A.)**

**i. Public or private:** Under Chilean law, a corporation can be public/open, private/closed or a special corporation. A corporation is public if:

- It publicly offers its shares in accordance to Securities Market Act (law 18.045) or
- It has at least 500 shareholders and at least 10% of its issued capital is held by at least 100 of its shareholders.

**ii. Source of regulation:** Corporations are regulated under the Corporations Act (law 18,046). Furthermore, public corporations are subject to the control of the Financial Market Commission (CMF in its Spanish acronym). They are listed on the stock exchange and must publish and send to all shareholders an annual report and audited annual

financial statements. Public companies must also distribute at least 30% of net profits, unless all shareholders agree otherwise. These requirements do not apply to private corporations.

**iii. Shareholders:** A minimum of two shareholders is required. A corporation is automatically dissolved if all its shares are held by one shareholder. As with partnerships, total control can be achieved through ownership by related or nominee entities.

**iv. Directors and management:** Management of a corporation is in the hands of a board of directors, composed of a minimum of three directors in the case of private corporations and by a minimum of five in the case of public corporations. Directors can be of any nationality and are appointed by the shareholders in an ordinary shareholders meeting. Elections of the entire board must be held at least every three years and directors may be re-elected indefinitely. The board of directors may exercise all powers of the corporation not reserved to the shareholders under the corporation's bylaws and the Corporation Act. The board could delegate part of its powers to managers, assistant managers, lawyers or members of the board, although delegation to other persons is possible for specific purposes.

**v. Incorporation:** Corporations are incorporated by means of a deed, which contains the corporation's bylaws. An abstract of the bylaws must be published in the Official Gazette and Registered in the Commerce Registry. A





corporation names must include the words Sociedad Anónima or the initials S.A.

**vi. Capital:** A corporation's capital is set out in its bylaws and may consist of contributions of cash or property. Shares may not be issued as payment for personal services or for the incorporation of the corporation. Capital must be subscribed and paid within three years. Capital may be increased or reduced by agreement during an extraordinary shareholders' meeting and requires the approval of the tax authority in the case of a reduction.

**vii. Dividends:** A corporation cannot pay dividends (i.e., distribute profits) until previous years' losses have been set off. Interim or provisional dividends may be declared by the directors, but they are personally liable if such

dividends exceed annual profits available for distribution.

**vii. Transfers of shares:** The board of directors cannot restrict share transfers, and the bylaws of public corporations cannot limit the free transfer of shares. However, shareholder agreements can allow shareholders to create rights and obligations in addition to those already arising from the shares they own, such as a mechanism for the transfer of shares.

**vii. Merger or division:** A corporation can either be merged or divided at an extraordinary shareholders' meeting with the approval of at least two thirds of shareholders with voting rights.

**viii. Minority rights:** In the case of a merger, the liquidation of the corporation's assets or the issuance of preferred shares, for

example, dissenting shareholders have the right to require the corporation to buy their shares.

**viii. Dissolution:** A corporation may be dissolved, during an extraordinary shareholder's meeting, by agreement of at least two thirds of shares with voting rights. Dissolution may also be required pursuant the applicable law or by the corporation's bylaws.

#### **4.3 Joint-stock company (Sociedad por Acciones/SpA)**

This type of company is a recent addition to the different corporate structures in Chile. The joint-stock company has been positively received among investors for its statutory flexibility, and for allowing a sole shareholder to own 100% of the company's shares. Corporate governance regulations of closed corporations apply to joint-stock companies.

#### 4.4 Individual limited liability company (EIRL)

In Chile, an individual can acquire the status of a legal entity as an EIRL (in its Spanish acronym). This is a legal entity of a commercial nature with assets distinct from those of its owner that does not require the participation of a third party.

These companies are subject to the rules of the Chilean Code of Commerce and can undertake any type of civil and commercial activity, except those reserved by law for corporations (i.e., insurance companies). Their assets are limited to the amount specified in their deeds and the owner is personally liable up to the capital contributed to the company, while the company is liable to the extent of all its assets.

The company's name must include the name of its founder or an invented name that refers to its purpose, and must also include the words *Empresa Individual de Responsabilidad Limitada* or EIRL. The company's purpose must indicate the nature of its activities and the specific sector in which it will operate.

#### 4.5 Association/joint venture

An association or joint venture (*asociación o cuentas en participación*) is a contractual relationship pursuant to which two or more parties participate in one or more business ventures that are carried out in the name and under the responsibility of one party only. This party, known as the manager or administrator, is responsible for rendering accounts to the other participants and distributing profits and losses between them in the agreed proportions. The manager is

responsible for all dealings with third parties in relation to the association and relevant business ventures.

An agreement between the parties sets out the purpose, form and terms of the association and the parties' respective interests. The arrangement is essentially private and does not create a separate legal entity. Joint venture partners often operate in Chile through a jointly formed Chilean corporation, partnership or branch office.

#### 4.6 Representative office (agency)

A foreign company may establish a representative office (also known as agency) in Chile, which is a legal structure to carry out its purpose in a direct way in Chile. An agency is not a legal entity separated from the foreign company. In this sense, the foreign company is liable to the creditors of the agency. In establishing an agency, the foreign company should maintain sufficient assets in Chile to comply with the obligations of its agency in Chile. Further, it must be agreed that the agency's assets will be subject to Chilean law, especially with regard to its obligations in Chile.

The first step in establishing an agency in Chile is the appointment of an agent, through a general power of attorney to act in Chile. The agent should be responsible for creating the representative office through the registration with a notary public of certain documents relating to the foreign corporation, duly translated into Spanish and by means of a deed. An abstract of these documents must be registered at the Registry of Commerce and published in the Official Gazette.

For representative offices, branches or other permanent establishments that operate in Chile, the income originated in Chile is determined on the basis of where the company is based, and in accordance to their accounting balance sheets.

### 5.0 FINANCING A COMPANY SUBSIDIARY

#### 5.1 Equity financing

##### 5.1.1 Contributions for rights or shares

Where an equity investment is made into a Chilean company in exchange for right or shares, the amount of the investment is added to the company's "stated capital" account that shall be equal to the capital mentioned in the bylaws.

##### 5.1.2 Distributions of paid-up capital

A Chilean company is permitted to make distributions of its paid-up capital to a non-resident owner without incurring any withholding tax, as far as the distribution respects the imputation order established in the Income Tax Law, starting with the tax profits, then the financial profits and finally the capital. The distribution of profits will be subject to withholding tax.

#### 5.2 Debt financing

##### 5.2.1 Withholding tax implications on interest paid on foreign loans

Chilean companies are permitted to borrow funds from related or third parties without tax implications.

Furthermore, there are no Chilean tax implications on the repayment of the principal amount of such debt. As a general rule, interest arising from foreign loans granted to taxpayers domiciled or resident



in Chile is subject to a 35% withholding tax. No deductions are allowed. The withholding tax rate can be reduced or eliminated under an applicable double-taxation treaty for avoiding double taxation.

However, a 4% reduced withholding tax rate applies when interest arises from loans granted by foreign banks or financial institutions, or from credits granted by foreign suppliers for the acquisition of goods imported into Chile. Provided that the loan or suppliers' credit is not considered to be related in the terms defined by the Income Tax Law, or if related, thin capitalization thresholds are not surpassed.

Whether subject to the normal or reduced tax rate, the Chilean borrower must withhold the applicable value when interest is paid, remitted abroad, credited into the lender's account or made available to the lender by any means, whichever occurs first. The tax withheld must be paid into the Chilean Treasury within the first 12 days of the following month.

### 5.2.2 Thin capitalization

Excessive debt exists when a loan or credit is granted in a year in which the borrower's foreign debt exceeds three times its tax equity.

The 35% tax applies to interest deriving from an excessive debt with related parties (as the Tax Law defines), and it is paid in two parts: (i) the 4% withholding tax, which must be withheld and then paid within the first 12 days of the month following that in which the interest was paid, remitted abroad, credited into the lender's account or made available to the lender by any other means; and (ii) the 31% additional

tax surcharge (which shall be paid by the Chilean entity, i.e., the debtor of the loan), which is an annual tax payable in the next April following the payment of the 4% withholding tax. The 31% additional tax surcharge is borne by the borrower and is a deductible expense for the Chilean borrower.

Thin capitalization rules do not apply to Chilean debtors whose activities are qualified as financial by the Ministry of Finance, nor to loans granted by multilateral international financial organizations.

Interest derived from foreign loans is tax deductible, provided that the loan or credit from which it derives is related to the borrower's business activity and is necessary to produce its income.

### 5.3 Stamp tax

Stamp tax is currently applied on the documents issued in connection with money-lending operations (e.g., credit loans, promissory notes, etc.). The stamp tax rate is determined at a fixed percentage over these documents' amount for every month between their issuance and their maturity (from 0.066% to 0.8%), capped at 12 months. Credit documents without a maturity date shall be taxed at a fixed stamp tax rate of 0.332% of the credit amount.

This tax shall apply either on local loans, provided such loans are granted by means of a written contract and to loans abroad. In the case of loans abroad, the tax will apply when such loans are registered in the Chilean company's accounting records, even if there is no written agreement.

## 6.0 CORPORATE INCOME TAX

Companies in Chile are taxed through the First Category Income Tax (the "Corporate Tax"). Corporate Tax applies to income obtained from activities where the use of capital prevails over personal work. Among others, income derived from the following activities, assets or companies are subject to the First Category Income Tax:

- i. Exploitation of real estate (land, property)
- ii. Securities, bonds and deposits
- iii. Commercial, industrial and mining activities; exploitation of natural resources; insurance companies; airline companies; holding or capitalization companies; banks, financial companies and other companies that undertake similar activities; and companies engaged in construction, journalism, advertising, radio, television, telecommunications and data processing activities
- iv. Traders; commission agents with permanent offices; auctioneers, customs agents, shippers and other individuals who participate in nautical, port and customs duty commerce; insurance agents that are not individual operators; schools; academies and institutes engaged in private teaching; clinics, hospitals, laboratories and other analogous private establishments; and companies engaged in entertainment activities
- v. Any other income not taxable under other taxes, and that is not exempted from any taxes.

## 6.1 Tax regimes

Laws No 20,780 and 20,899, among others, introduced important modifications to the Income Tax Law, which as of 2018 are in full force. The Income Tax Law establishes two alternative systems of taxation for companies that are subject to First Category Income Tax and that are obliged to declare their actual incomes on a full accounting basis:

- i. **Attributed System:** A full imputation tax credit based on the presumed income system of the owners. Final shareholders (individuals or foreign companies) shall be entitled to a tax credit against final taxes, equal to the 100% of the First Category Income Tax previously paid by the company. By choosing the Attributed System, partners and shareholders of companies are taxed on all the income generated annually by the entity in which they participate, on an accrued basis, proportionally based on the percentage of ownership. Therefore, taxation will be triggered every year for the partners, even if no dividend distribution has taken place. (The final tax burden shall be 35%, when combining First Category Income Tax and final taxes for owners.)
- ii. **Partially Integrated System:** A partial-credit regime based on the effective income system of the owners. The Partially Integrated System maintains the current mechanism in which the shareholders or partners are taxed when an actual dividend distribution occurs. Final shareholders (individuals

or foreign companies) shall pay final taxes only when dividend distributions occur, but with a 65% of the tax credit of the First Category Income Tax duly paid by the company (final tax burden shall be 44.45%). Such tax credit shall be used against final taxes paid by the final owners of the company. Notwithstanding the foregoing, such tax credit shall be equal to 100% of the First Category Income Tax previously paid by the company, if the beneficiary shareholder is domiciled in one country with which Chile has a double-taxation treaty in force.

It is important to note that Law 20,899, enacted February 1, 2016, with the purpose of simplifying the application of the new tax regimes, established that the Attributed System will be only an option for companies integrated by local individuals, foreign individuals or foreign companies; the Partially Integrated System is maintained as the principal tax system. Corporations must use the Partially Integrated System.

## 6.2 Income tax rate

For 2018, the corporate tax rate on general active business income is 25% under the Attributed System or 27% under the Partially Integrated System.

## 6.3 Capital gains

As a general rule, capital gains are considered normal income and thus are taxed at the same rate as the Corporate Tax and final taxes.

## 6.4 Branch tax

Foreign companies that have branches, agencies or permanent

establishments in Chile will be subject to Corporate Tax and final taxes related to making distributions. Therefore, taxpayers domiciled or resident abroad that have a permanent establishment in Chile are taxed in Chile with the First Category Income Tax on their Chilean source income determined through full accounting records. The 35% tax is only applied when profits are attributed or distributed abroad.

## 6.5 Computation of taxable income

### 6.5.1 Taxable base

A taxpayer is subject to tax on its profits from carrying on its business. Profit is generally considered to be its revenues less its deductible expenditures. Companies subject to corporate tax are obliged to declare their actual incomes on a full accounting basis. First Category Income Tax is applied on the effective taxable incomes determined through full accounting records. Chilean source income is taxed on an accrual basis, and foreign source income is taxed on a paid basis, unless the income is obtained through a permanent establishment that exists abroad, in which case, the permanent establishment's income is taxed on an accrual basis.

Apart from initial and closing periods, the tax or fiscal year coincides with the calendar year. Each tax year starts on January 1 and ends on December 31. Annual tax filings must be done by April of the following year (i.e., April 2019 for the 2018 tax year). Calendar years are also known as "commercial years."



### 6.5.2 Deductions

The two main deductions in the Chilean Income Tax Law are tax-deductible expenses and direct costs.

An expense is tax-deductible when it is necessary to produce the taxpayer's taxable income. It is deemed to be necessary when it meets the following requirements: (i) it is mandatory and inevitable to produce taxable income; (ii) it is related to the taxpayer's line of business; (iii) the expense is paid or owed; and (iv) it must be fully evidenced before the SII. Rejected expenses are subject to a 40% rate of tax as a penalty for being incorrectly claimed and deducted.

Taxpayers are allowed to deduct from their gross income the direct costs necessary to obtain their taxable income. Direct costs for products purchased in Chile include purchase price, and optionally transport and insurance payments to the purchaser's warehouses. Products imported into Chile include their cost, insurance and freight (CIF) value, customs duties paid, expenses incurred to nationalize the products and, optionally, transport costs and insurance paid while the product is on the way to the importer's warehouse. Products manufactured by the taxpayer include raw material and direct labor costs.

## 7.0 CROSS-BORDER PAYMENTS

### 7.1 Transfer pricing

Chilean tax law has enforced transfer pricing rules since 2012. Transfer pricing is the value placed on cross-border transactions by the related parties. Transfer pricing is based on the arm's length principle, which sets forth that prices or values imposed between related parties should correspond to those established between non-related independent parties in similar transactions.

Chilean transfer pricing rules shall apply to any type of cross-border transactions involving related parties. If the transaction is between a Chilean and a foreign entity, for instance, transfer pricing rules apply to the purchase and sale of products, furnishing of services, financial transactions, technology transfers or transfer of rights to use patents, trademarks and copyrights.

Under Chilean Law, two parties shall be considered to be related for transfer pricing purposes in the following circumstances:



- i. When a company participates directly or indirectly in the management, control, capital or profits of a company incorporated in Chile, or vice versa
- ii. When the same person participates directly or indirectly in the management, control, capital or profits of an enterprise incorporated in Chile and in a company incorporated abroad
- iii. A permanent establishment and its head office are deemed to be related; likewise, there will be relationship between a permanent establishment and the related parties of its head office
- iv. Where operations are carried out by Chilean residents with a company resident in tax havens, parties are deemed to be related, unless such country has an agreement with Chile providing for the exchange of information
- v. Individuals up to and including the fourth degree of consanguinity or affinity kinship are related (i.e., parents, siblings, grandparents, uncles and cousins)
- vi. Where a cross-border operation carried out between a Chilean company and an unrelated foreign party is replicated abroad by the unrelated foreign party and a related party of the Chilean company, the parties are deemed to be related.

Upon request from the SII, taxpayers must prove that their transactions with related parties have been made at arm's length value, which shall be demonstrated by applying any of the following methods: (i) Comparable Uncontrolled Price Method; (ii) Resale Price Method; (iii) Cost Plus Method; (iv) Profit Split

Method; and (iv) Transactional Net Margin Method. If none of these methods can be applied due to special circumstances, the SII may allow other reasonable methods.

The taxpayer must apply the most appropriate method to reflect an arm's length value considering the circumstances of the case. For the purpose of selecting the most appropriate method, the taxpayer should consider the respective strengths and weaknesses of each method, the appropriateness of the method in relation to the relevant operation, the availability of relevant information on a comparable basis, and the reliability of comparability adjustments.

If the SII finds that the taxpayer has not proved their operations have been made at arm's length value, the SII will establish such value, using the information delivered by the taxpayer and any other information it may have, applying any of the referred methods. Upon determination of an arm's length value, the adjustment made by the SII will be subject to a 40% penalty. Regular interests and fines will apply accordingly. An additional transfer pricing fine of 5% of the transfer pricing adjustment will be applied unless the taxpayer has timely submitted the documentation required by the SII during the audit.

Taxpayers carrying out operations with related parties abroad shall submit to the SII every year a sworn statement regarding such operations, including the information and following the template established by the SII. Likewise, the SII may request taxpayers provide information regarding their related parties abroad. In the case

of noncompliance, delay or an incomplete or erroneous submission of the annual transfer pricing statement, a penalty may be levied.

Taxpayers carrying out operations with related parties will be entitled to request an advanced pricing arrangement (APA) with the SII. To request an APA, taxpayers must submit all the documentation requested by the SII pursuant to a specific regulation issued for such purposes. A taxpayer may request a bilateral or multilateral APA with other tax administrations. Where the operations related to the APA involve the import of goods, the Customs Agency should consent to the agreement. An APA will apply from the date of its signing and will last for the following three commercial years. A renewal may be requested.

Once the APA is signed, the SII will not be able to determine price differences on the operation at issue. However, if at any time the main circumstances taken into consideration for agreeing the APA change substantially, both the taxpayer and the SII are entitled to terminate the APA on that basis. The SII may also terminate an APA if the documents delivered by the relevant taxpayer at the time of the request of an APA were false or erroneous.

## 8.0 PAYROLL TAXES

In Chile, the employer must deduct from the employee's salary the taxes that the employees are subject to and the social security contributions.

### 8.1 Taxes

The employer must deduct from the employee's taxable remuneration the Second Category Tax, which corresponds to a progressive tax, payable monthly by all those

who receive an income from the development of a dependent activity and whose monthly gross salary exceeds CLP \$648,216 (as of October 2018). This is a progressive tax rate that ranges from 0% to 35%, which is the same as global complementary income tax.

## **8.2 Social security contributions**

Social security contributions are payments that may be payable by the employer and/or the employee, to finance the social security protection system related to the risks or social contingencies that employees and their families may suffer. The different types of social security contributions are discussed below.

### **8.2.1 Pension system**

The pension system is intended to cover the contingency of old age. Contributions are equivalent to 10% of the employee's gross salary, with a taxable income cap of CLP 2,147,933 (for the remunerations of October 2018). The percentage of the contribution must be added the respective commission charged by each pension fund administrator, which are institutions in charge of receiving the payment of these contributions and managing the funds of each employee. This commission varies between 0.77% and 1.44%. The employer must deduct this amount from the employee's gross salary and pay it directly to the corresponding institution.

### **8.2.2 Health system**

The health system is intended to cover the contingency of common illness of each employee. Contributions are equivalent to at least 7% of the employee's gross salary. The final percentage

to be deducted will depend on the cost of the health plan that each employee agrees with the health insurance institution. The employer must deduct this amount from the employee's gross salary and pay it directly to the corresponding institution.

### **8.2.3 Invalidity insurance**

Invalidity insurance is intended to cover an employee's medical contingency in case of disability. Contributions are equivalent to 1.15% of the employee's gross salary. This amount must be paid by the employer directly to the pension funds administrator.

### **8.2.4 Occupational accident and/or disease insurance**

Occupational accident and/or disease insurance is intended to cover the contingency of an occupational accident and/or disease. It is equivalent to a basic contribution of 0.95% of the employee's gross salary, plus an additional differentiated contribution according to the activity risk of the employing company that may not exceed the 3.4% of the employee's gross salary.

However, this fee may change based on the results of an evaluation conducted every two years. During the second half of every odd-numbered year (e.g., 2019, 2021, etc.), employing entities are subject to an evaluation that accounts for occupational accidents and diseases incurred by employees. As a result, the differentiated additional rate may fall within a range of 0% to 6.8%. This amount must be paid by the employer directly to the Mutual de Seguridad (Chile's social security agency).

### **8.2.5 Unemployment insurance**

Unemployment insurance is intended to cover the contingency of unemployment. Contributions are equivalent to 3% of the employee's gross salary. In the case of an indefinite contract, this insurance will be financed by an employer contribution of 2.4% of the employee's gross salary, while the remaining 0.6% is borne by the employee. On the contrary, if it is a fixed-term contract, the employer must contribute the entire 3%. This amount must be paid directly by the employer to the unemployment fund administrator.

## **9.0 INDIRECT TAXES**

### **9.1 Value-added tax**

Value-added tax (VAT) is the most important of the indirect taxes in Chile, making up nearly 50% of fiscal revenue. It is levied on sales, imports and services. VAT applies on sales of any physical asset by a person who is a customary seller. Sales of movable assets or real estate (provided that the seller is considered a vendor) are also subject to VAT.

Construction contracts are also subject to VAT. The tax basis is the sale price, including monetary correction, interests, finance charges and penalty interest. The tax itself is excluded from the taxable base. In case of imports, the taxable basis is the customs value or CIF value (combined cost of goods, insurance and freight), including customs duties. VAT also applies to services rendered in Chile, excluding professional services. The tax basis is the value of the services rendered plus monetary correction, interest, finance charges and other factors.



The VAT rate is 19%, applied on the value of the sale or service rendered. In the case of constructed real estate sales, the land value shall be deducted. VAT is declared and paid monthly, on the 12th day of the month following the taxed transaction.

## **9.2 Municipal tax (commercial license)**

An annual tax is payable to the municipality in which professional, commercial or industrial activities are carried out. In the case of professional activities, a fixed amount is levied, while for commercial or industrial activities, the duty is determined by applying a tax rate to the equity of the business. This tax rate is set by each municipality, ranging from 0.025% to 0.05% of the company's equity.

## **10.0 PERSONAL TAXES**

### **10.1 Global complementary income tax**

Global complementary income tax is an annual tax that affects individuals domiciled in Chile and is charged on total taxable incomes. Profits attributed or distributed by Chilean companies to individuals resident or domicile in Chile are subject to a global complementary income tax at a progressive tax rate that ranges from 0% to 35%. The First Category Income Tax paid by companies on the profits attributed or distributed is available as a credit. Depending on which tax regime the company is subject to, the credit is equal to 65% (Partially Integrated System) or 100% (Attributed System or when treaty to avoid double taxation is in force) of the First Category Income Tax previously paid by the company.

## **10.2 Withholding tax**

Withholding tax is an annual tax that affects companies or individuals not resident in Chile and is charged on total taxable income. Generally speaking, non-resident taxpayers are only taxed on their Chilean source income. Income is deemed to be sourced in Chile when the income is derived from assets located in Chile or from activities undertaken in Chilean territory.

Chilean source income includes capital gains obtained from the sale of shares or rights in a foreign non-resident entity owning shares or rights in a Chilean entity. Profits distributed from Chilean companies or Chilean branches to shareholders, partners or parent companies not resident in Chile are subject to a 35% withholding tax. However, as noted, the corporate tax paid by a company is a tax credit against the withholding tax that non-residents must pay. Depending on which tax regime the company has chosen, the credit is equal to 65% (Partially Integrated System) or 100% (Attributed System or when treaty to avoid double taxation is in force) of the corporate tax paid by the company.

Final tax burden for owners of companies who choose the Attributed System will be 35%, because they shall have full imputation of First Category Income Tax as a credit. On the other hand, for owners of companies who choose the Partially Integrated System, the final tax burden will be 44.45%, because the tax credit of the First Category Income Tax paid by the company will be only 65% of the total amount paid. This rule shall apply either for global complementary income tax and withholding tax.

Investors resident in a country with which Chile has a double-taxation treaty in force will not be subject to the above-mentioned limitation on the use of credit, and the current 35% tax burden will remain applicable in any scenario.

## **11.0 PROPOSED REFORMS TO THE TAX SYSTEM**

Currently there is a new project of law under discussion, which intends to simplify the actual tax system. The main objective is to reach and maintain economic growth over time, stimulating investment. The new bill would create a unique system, with a corporate tax rate of 27%, which is an integrated with final taxes, and would be levied based on effective cash withdrawals. In addition, small and medium-sized companies would have a special tax regime, with a first category rate of 25%. This is also a completely integrated rate with final taxes.

The new bill expands on the concept of expenses that can be deducted from the tax base of the corporate tax to include financial expenses, and not only taxable ones. The new bill would also introduce a tax on "digital services." This would be a special indirect and substitutive tax, with a rate of 10%, to be levied on digital services rendered by foreign companies every time those services are used in Chile by natural persons. The rate will apply to the total amount of the transaction, and is a withholding tax that must be withheld by the payer before making the payment abroad.