

Contacts

German Campos
Partner
german.campos@cl.pwc.com

Mirenchu Muñoz
Manager
mirenchu.munoz@cl.pwc.com

Tax News



Tax News

Double Taxation Conventions: Australia and USA

Santiago, 5th of February 2010

Double Taxation Conventions: Chile signs treaty with the USA.

On January 25th 2010, the Chilean government announced that the negotiations with the United States of America to avoid double taxation on income taxes had concluded successfully.

According to information published on the website of the US Treasury Department, the double taxation Convention between Chile and the US was due to be signed in February this year, which actually took place on the 4th of February 2010.

In this way, this will be the second double taxation Convention signed by the United States with a South American country.

This Convention contains regulations that will reduce the taxation in the source State on certain payments of dividends, interests and royalties to residents of the other State; rules to determine when an enterprise or individual of one country is subject to tax on business activities in the other country, and rules that will enhance the mobility of labor by coordinating the tax aspects of the pension systems of both countries. Moreover, the treaty contains a clause that allows the exchange of information between the tax authorities of both States, and a clause on the limitation of benefits (LOB) that seeks to prevent abuse of the Convention by third country investors.

Finally, it is also worth mentioning that this convention includes provisions that grant tax benefits to the investments made by pension funds, directly or through the companies managing them. This saves the difficulties caused by the fact that generally, and due to the nature of the funds, they do not qualify as persons or companies for these treaties, and that they are not recognized as the effective beneficiaries of the investment income.

Comments by PwC Chile

Firstly, it must be highlighted, that the negotiations of this Convention were pending due to the demands imposed by the United States regarding bank secrecy and exchange of information. In this sense, the recent legal changes passed in Chile as part of the process to join the OECD, which entailed the approval of a higher standard on tax information exchange matters; would have been key factors for the conclusion of these negotiations and swift signature of the treaty.

Secondly, it should be noted that the entry into force of this convention is subject to the ratification and approval by the National Congress of each State. In any case, once the ratification takes place and each State notifies the other on this fact through diplomatic channels, the treaty will be in force as from the date of the last notification. The provisions of the convention shall have effect at the latest on January 1 of the following year, with respect to tax periods commencing on that date or thereafter. With respect to taxes withheld at source, the provisions of the treaty shall apply with respect to sums paid or credited on or after the first day of the second month following the date on which the convention entered into force. Notwithstanding all this, the provisions on exchange of information shall be applicable as from the date of entry into force of the convention, without regard to the taxable period to which the matter relates.

Thirdly, regarding the taxation of dividends and profits paid from Chile, it is necessary to keep in mind that the convention with the USA does not provide for a reduction of the rates applicable in Chile, as long as the First Category Tax continues to be a credit against the Additional Withholding Tax.

* * *

Legal Disclaimer

The content of this newsletter is by its nature of a general character and its purpose is to provide current information to the general business and academic community. Accordingly, the information contained in this document is subject to change, and is provided in the understanding that the authors and publishers are not by this mean engaging in the provision of legal, accounting, tax or other professional advice or services. Therefore, no part of this document may be relied on or used as a substitute for consultation with professional accounting, tax, legal or other competent advisors. Before making any decision or taking any action, you must consult a PricewaterhouseCoopers professional.

While we have made every attempt to ensure that the information contained in this newsletter has been obtained from reliable sources, PricewaterhouseCoopers is not responsible for any errors or omissions, or for the results obtained from the use of this information. All information in this newsletter is provided 'as is', with no guarantee of completeness, accuracy, timeliness or of the results obtained from the use of this information, and without warranty of any kind, express or implied, including, but not limited to warranties of performance, merchantability and fitness for a particular purpose. In no event will PricewaterhouseCoopers, its related partnerships or corporations, or the partners, agents or employees thereof be liable to you or anyone else for any decision made or action taken in reliance on the information in this newsletter or for any consequential, special or similar damages.

If you would like us to forward this newsletter to another person, please let us know at the following address: judith.echeverria@cl.pwcl.com. / If you would prefer us to stop sending this newsletter to you, please send a REPLY message with the following subject: CANCEL SENDING.