Chilean Government presents Tax Reform Bill

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In brief

The Chilean Executive Branch has submitted a comprehensive tax reform bill (the Tax Reform Bill) to the Chilean Congress. Tax reform is a key component of Chilean President Gabriel Boric’s agenda.

The Tax Reform Bill is expected to represent 4.3% of Chile’s GDP by 2026 (a net 4.1% of the country’s GDP after discounting tax expenditures incorporated by the Tax Reform Bill).

Specifically, the Tax Reform Bill proposes to amend certain matters related to income tax, wealth tax, and shareholder taxation. The bill also would incorporate new measures focused on preventing tax avoidance and tax evasion and would reduce the number of tax exemptions.

In addition to the Tax Reform Bill, the Chilean Government has submitted to Congress proposed amendments to the Mining Tax Bill that currently is under discussion in the Chilean Senate. The latter bill seeks to introduce a new tax applicable to large-scale mining companies and would repeal the Mining Tax currently in force.

In general, the Tax Reform Bill rules would enter into force in the month following its publication in the Official Gazette, unless specifically indicated otherwise. The Bill includes specific dates of entry into force for several provisions, as well as transitory rules. Further, the government’s letter presenting the Tax Reform Bill indicates that most changes are expected to be fully adopted by 2026.

President Boric does not have a majority in the Chilean Congress. Therefore, amendments to the bill are likely to be introduced during the legislative discussion.

Furthermore, in September, Chilean voters will vote on a New Constitution, which is expected to constitute a major milestone in President Boric’s administration. Members of the President’s Cabinet have described the New Constitution as key for the envisioned reforms in the President’s agenda, including tax reform.

Observation: Chile is proposing significant and wide-spread changes to its tax legislation as part of President Boric’s agenda. Given the current political environment, the Tax Reform Bill may be subject to extensive debate, from both a technical and political standpoint. Accordingly, we expect that certain provisions of the Tax Reform Bill will change during the course of the legislative discussion in Congress.
**Action item:** Taxpayers should monitor the progress of the Tax Reform Bill through the legislative process, including discussions as to how residents in jurisdictions with treaties pending to be ratified would be treated under the new tax regime.

**In detail**

**Highlights of the Tax Reform Bill**

**Amendments to income tax law**

**Elimination of the integrated system**

The Tax Reform Bill proposes a new income tax system for large companies that replaces the current integrated income tax system. The proposed system would separate the taxation of companies from the taxation of their shareholders.

The current integrated system allows the Chilean Corporate Income Tax (Impuesto de Primera Categoría) paid by the local company to be credited against the 35% Non-resident Withholding Tax (Impuesto Adicional), applicable on dividends paid to non-resident shareholders. The percentage of Corporate Income Tax that can be credited depends on the tax residency of the non-resident shareholders (i.e., 100% for treaty residents and 65% for non-treaty residents).

In contrast, the Tax Reform Bill proposes a new Capital Income Tax applicable at a 22% rate on dividends or withdrawals from a Chilean legal entity or branch. Further, the Corporate Income Tax no longer would be creditable against the shareholder-level taxation.

The Tax Reform Bill excludes from the new proposed system dividends paid to shareholders that are tax residents in a country with which Chile has a tax treaty in force. Such dividends are expected to continue to be subject to the current integrated system.

Chile has a number of signed treaties pending to enter into force, including with India, the Netherlands, United Arab Emirates, and the United States. The Tax Reform Bill does not clarify whether these countries would be considered treaty countries for purposes of applying the current integrated systems in the future.

**Observation:** Chilean domestic law currently deems the United States as a treaty jurisdiction for dividend taxation purposes through 2026. This grandfathering rule is expected to be extended until the pending treaty is ratified. However, taxpayers should monitor legislative discussions and the status of pending treaties for developments.

**Reduction of the First Category Tax and new Development Levy**

The Tax Reform Bill would reduce the Corporate Income Tax rate from 27% to 25%. In addition, it would introduce a new 2% Development Levy. According to the bill, the Development Levy would not need to be remitted if such amount is spent on expenses that increase the productivity of the company and the economy. Such expenses would include R&D, the cost of registering and protecting certain intellectual property, International Organization of Standardization (IOS) certification costs, expenses for the acquisition of manufacturing and services with a high technological content, and costs for acquiring goods and services developed with public support from the Chilean Production Development Corporation (CORFO).
**New anti-deferral tax**

The Tax Reform Bill would create a 1.8% tax applicable on unremitted earnings similar to an interest rate on the deferred Capital Income Tax. This rate would apply only to companies whose income is derived more than 50% from passive sources, such as dividends, interest (except financial institutions), or real estate leases. Operating companies that invest in active business operations are not expected to be subject to this tax.

**Substitute Tax applicable to retained earnings**

The Tax Reform Bill also includes a Substitute Tax applicable to retained earnings as a transitory mechanism for taxing such retained earnings once the new income tax system is in force. This Substitute Tax on retained earnings applies at a 10% rate for calendar years 2023, 2024, and 2025; and at a 12% rate for years 2026 and 2027. As opposed to the 30% Substitute Tax in force through April 2022, the Corporate Income Tax paid on retained earnings may not be creditable against the new proposed Substitute Tax liability proposed in the Tax Reform Bill.

Once the Substitute Tax is paid, income subject to such tax is considered exempt from income tax, and furthermore, not subject to additional taxation on remittances to the shareholders.

**Net Operating Loss limitations**

As of calendar year 2025, NOLs carried forward could only offset up to 50% of the taxable income for the relevant period. According to the Tax Reform Bill, NOLs still could be carried forward with no time limitation. A transitory 75% limitation would apply for calendar year 2024.

**Other relevant proposals**

**Registry of ultimate beneficial owner**

The proposal seeks to create a registry of ultimate beneficial owners. For these purposes, a beneficial owner is considered to be any individual, either Chilean or foreign, that:(a) holds a participation greater than 10% in the ownership of a Chilean vehicle (e.g., legal entity, investment fund, Chilean branch); (b) is able to appoint (directly or indirectly) the majority of the directors or administrators of the Chilean vehicle; or (c) exercises an effective management of the Chilean vehicle.

**New Tax on mining**

The new Mining Tax seeks to redistribute income obtained from non-renewable resources, while preserving investment and development of the mining sector. The new Mining Tax would apply to legal entities or individuals engaged in the extraction of minerals, provided that specific thresholds are met.

The new Mining Tax has a hybrid nature, combining:(a) a component on sales (ad-valorem) with effective rates ranging between 1% and 7%, and (b) an additional component on mining income, with rates ranging between 2% and 36%. The bill includes specific calculation rules in order to compute the applicable tax.
Let’s talk

For a deeper discussion of how the proposed Chilean Tax Reform Bill might affect your business, please contact:

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