



## International tax

# Chile Highlights 2012

### Investment basics:

**Currency** – Chilean Peso (CLP)

**Foreign exchange control** – While the general rule in Chile is that entities and individuals are free to enter into any kind of foreign exchange transaction, some reporting formalities exist with respect to investments that exceed USD 10,000 (or the equivalent in another currency).

**Accounting principles/financial statements** – Chilean GAAP applies, with a gradual convergence to IFRS accounting principles being adopted over a 3-year period that began on 31 December 2009. Financial statements must be filed quarterly.

**Principal business entities** – These are the corporation, corporation 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 if it is incorporated in Chile.

**Basis** – Companies resident in Chile pay Chilean tax on a worldwide basis. Nonresidents pay tax on their Chilean-source income. Remuneration paid to nonresidents for services rendered abroad also are subject to Chilean income tax.

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

**Taxation of dividends** – Distributions of profits between Chilean entities are not subject to income tax. Profits distributed to Chilean individual residents are subject to a global complementary tax of 0%-40%, against which the corporate level tax may be used as a credit.

**Capital gains** – Capital gains are generally taxed as ordinary income. Capital gains on

the disposal of certain assets may be exempt from tax or subject to reduced rates if certain requirements are met.

**Losses** – Tax losses may be carried forward and back indefinitely. Tax losses are non-transferable and may be used only by the taxpayer that incurred the losses.

**Rate** – Under a law published 27 September 2012, the corporate income tax rate (the “first category income tax”) was increased from 18.5% to 20% on earnings accrued as from 1 January 2012 (from 1 September 2012 for income subject to the first category income tax as a single tax).

**Surtax** – In addition to the 17% corporate tax, an entity must pay a tax (either the global complementary tax for individual residents or the additional withholding tax for nonresident entities and individuals) upon the distribution of profits.

**Alternative minimum tax** – No

**Foreign tax credit** – Income taxes paid on dividends received from abroad by a Chilean entity may be credited against Chilean income taxes capped at 30% (first category income tax rate cap when profits are received from a branch abroad).

**Participation exemption** – A special regime exists for Chilean publicly traded stock corporations and closely held stock corporations that voluntarily submit to the supervision of the Chilean SEC and that meet the requirements stated by law. Such entities are deemed not to be Chilean resident for all income tax purposes and, therefore, are exempt from tax on any foreign income received. Dividends paid to shareholders that are not resident or domiciled in Chile are exempt from withholding tax.

**Holding company regime** – See under “Participation exemption.”

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

### Withholding tax:

**Dividends** – Profits repatriated to a parent company abroad are subject to a 35% “additional” tax against which the first category income tax paid at the corporate level may be used as a credit.

**Interest** – Interest is subject to a 35% withholding tax on the gross amount. A 4% reduced tax rate applies, inter alia, to interest on loans granted by foreign banks and financial institutions and by insurance companies and pension funds that comply with certain registration requirements, provided the lender and borrower are unrelated. The thin capitalization rules must be observed if the parties are related.

**Royalties** – Royalty payments for the use, enjoyment and exploitation of trademarks, patents, formulas and other similar services are subject to a 30% withholding tax. Payments for the use, enjoyment or exploitation of invention patents, useful models, industrial designs and drawings, blueprints or topography of integrated circuits, and of new vegetable varieties, are subject to a 15% withholding tax. The 15% rate also applies to payments for the use, enjoyment and exploitation of computer programs. The rate increases to 30% if the parties are related and/or if the beneficiary is resident in a tax haven jurisdiction, as provided on a list issued by the Chilean Treasury Ministry.

**Technical service fees** – A 15% additional withholding tax applies to payments made to entities not domiciled nor resident in Chile for technical and engineering works and professional or technical services that an individual or entity expert in a science or technique not resident nor domicile in Chile renders through an advice report or plan, whether rendered in Chile or abroad. The rate increases to 20% if parties involved are related and/or the beneficiary is resident in a tax haven jurisdiction as provided on a list issued by the Chilean Treasury Ministry.

**Branch remittance tax** – A 35% additional withholding tax applies to a remittance of profits (the first category income tax paid at the branch level may be used as a credit).

**Other** – No

### 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.

**Payroll tax** – No

**Real property tax** – Real estate tax is imposed at an annual rate of 1.4% on urban property, 1% on rural property and 1.2% on the cadastral value of a dwelling on the part that does not exceed approximately USD 75,000, and 1.4% on the part that exceeds that amount. A temporary increase to property taxes was enacted to finance reconstruction efforts and applies to certain higher value property.

**Social security** – Employers must make the following contributions for social security: (1) a monthly 0.95% premium on remuneration (capped at a floating amount) for 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, subject to a monthly cap of approximately USD 4,354; and (4) a 1.87% premium for survival and disability insurance. Item (4) currently applies only for employers that have more than 100 employees, but will be mandatory for all employers as from July 2011.

**Stamp duty** – Foreign loans are subject to a stamp tax, regardless of documentation. The rate is 0.05% for each month or fraction thereof, between disbursement and maturity, capped at 0.6%. Additionally, loans payable on demand or without maturity are subject to a 0.25% tax.

**Transfer tax** – No

**Other** – A tax on nondeductible expenses is applicable at a rate of 35% in the case of corporations. Disallowed expenses in limited liability partnerships are considered profit withdrawals.

### Anti-avoidance rules:

**Transfer pricing** – The tax authorities may challenge and reassess transfer prices between related parties where the terms and conditions of transactions are not conducted

at arm's length. Advance rulings may not be obtained and transfer pricing studies are not mandatory.

**Thin capitalization** – Thin capitalization rules apply to related party loans that are entitled to the reduced 4% tax rate on interest paid abroad.

**Controlled foreign companies** – No

**Other** – No

**Disclosure requirements** – No

### Administration and compliance:

**Tax year** – Calendar year

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

**Filing requirements** – Under Chile's self-assessment procedure, a tax return must be filed by April of the year following the tax year.

**Penalties** – Penalties apply for late filing, failure to file, 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** – Residents are taxed on their worldwide income; nonresidents are taxed only on Chilean-source income. Persons not domiciled or resident in Chile are subject to income tax on services rendered abroad and paid from Chile. Foreigners are taxed on Chilean-source income only during their first 3 years in Chile (although a 3-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 6 consecutive months in a calendar year or more than 6 months in 2 consecutive tax years. Depending on the circumstances, domicile can be obtained from the first day in the country.

**Filing status** – Joint filing is generally 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 tax, while investment income and profits earned from a business are subject to the global complementary income tax. The first category tax, discussed above, is creditable against the global complementary tax.

**Capital gains** – Capital gains are generally taxed as ordinary income. Capital gains on the disposal of various assets may be exempt or subject to reduced rates if certain requirements are met.

**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.

**Rates** – The individual income tax is charged at progressive rates up to 40% (global category tax).

### Other taxes on individuals:

**Capital duty** – No tax is payable by individuals on their total wealth or value or on certain 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** – An inheritance tax is levied on the net value of assets transferred at death.

**Net wealth/net worth tax** – No

**Social security** – Employees generally are required to make social security contributions equal to 20% of their monthly remuneration, capped at approximately USD 2,639. Compulsory unemployment insurance of 0.6% also is payable, subject to a monthly cap of USD 4,354.

### Administration and compliance:

**Tax year** – Calendar year

**Filing and payment** – An annual income tax return must be filed in April of the year following the close of the tax year, along with the payment of any outstanding tax liability.

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

### Value added tax:

**Taxable transactions** – VAT is charged on all recurring sales and other customary conventions over material goods. Imports are also subject to VAT.

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

**Registration** – Registration is compulsory. If the purchaser or the provider (or both) of the

services is not resident in Chile, the taxpayer for VAT purposes will be the payer.

**Filing and payment** – VAT must be paid on a monthly basis.

**Source of tax law:** Tax Code, Income Tax Law, VAT Law

**Tax treaties:** Chile has concluded 24 tax treaties.

**Tax authorities:** Chilean Internal Revenue

**International organizations:** OECD, Mercosur, APEC

**Deloitte contact**  
Anthony Cook  
E-mail: [acook@deloitte.com](mailto:acook@deloitte.com)

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