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I N D E X

1.- GENERAL ASPECTS OF THE TAX SYSTEM 3

2.- INCOME TAX

2.1 First Category Tax (Corporation Tax) 5

2.1.1 Attributed Income Regime (also called Regime A) 6

2.1.2 Partially Integrated Regime (also called Regime B) 6

2.1.3 Common rules for both new taxation systems 7

2.2 Second Category Tax (Personal Income Tax) 8

3.- OTHER CORPORATE TAXES AND CONTRIBUTIONS

3.1 Value Added Tax (VAT) 9

3.2 Duty Taxes 10

3.3 Municipal license tax 10

3.4 Real Property Tax 10

3.5 Social Security Contributions 11

3.6 Stamp Tax 11

3.7 Mining tax 11

3.8 Green taxes 12

4.- TAX INCENTIVES

4.1 Incentives for R&D investments 13

4.2 VAT cash-refund for investment in fixed assets 13

4.3 Special regime for Small and Medium Enterprises (SME) 14

4.4 Southernmost and Northernmost Regions 14

5.- ANTI-AVOIDANCE RULES

5.1 Transfer Pricing (TP) 15

5.2 Thin Capitalization 15

5.3 Overreaching General Anti-avoidance Rule (GAAR) 16

6.- CONCLUSIONS 16

This market survey aims to provide relevant information on the taxation system in Chile that could affect Indian companies willing to do business and/or invest in Chile.

One of the main factors to consider when a company is evaluating to open an office in a new market is the new country's tax regime. When moving into new markets, companies have to deeply understand the country's corporation tax, sales tax, dividend tax, and other applicable taxes. Additionally, the company must be aware of the accounting standards that apply.

1. General Aspects of the Tax System

In Chile, all individuals and companies are taxpayers, therefore are subject to an income tax on their monthly or annual income, as well as to other taxes.

The tax authority in Chile is the Internal Revenue Service ("Servicio de Impuestos Internos" or its acronym SII), which is a public organization and depends on government administration, specifically of the Ministry of Finance.

When carrying out business in Chile, a company has to be registered and get a Chilean Tax ID (called "Rol Unico Tributario" or its acronym RUT). This number is required to deal with the national tax authorities, such as the Internal Revenue Service (SII) and Customs. Moreover, every individual, including foreign individuals living in Chile must obtain a Chilean Tax ID.

The tax year starts on January 1st and ends on December 31th in the same year. Chile operates as a self-assessment regime. The date for which the annual income tax returns must be filed depends on whether the taxpayer must pay tax or is due to a refund. If the taxpayer owes tax, the filing date is April 30th and in the case of a tax refund, the date to file is the 9th of May of the following year. Nevertheless, companies have to make monthly advance payment of tax (called "Pagos provisionales mensuales" or its acrnym PPM).

From the time the taxpayer filed the return, the tax authority (SII) has an official three-year time limit in order to review, amend or rectify any tax return previously filed. When tax returns are not filed within the timetable established by the tax authorities or if they contain errors or omissions, fines have to be paid. Usually, the amount fines are three times the tax initially due. Nevertheless, the SII has a write-off policy (called "Condonación") that applies

in certain cases upon request and grant with a discount up to 70% of legal fees (interest rates and fines).

In the Chilean tax system, a unit of account called Monthly Tax Unit ("Unidad Tributaria Mensual" or its acronym UTM) is used for several operations, such as defining the income ranges to calculate the income tax, pay fines to the administration, etc. The equivalent in Chilean pesos of the UTM is informed monthly.

Chile's accounting standards are the IFRS (International Financial Reporting Standard) and the official accounting regulation body is the Chilean Ministry of Finance. Therefore, basic financial statements must include a statement of financial position, a statement of comprehensive income, a statement of cash flows, a statement of changes in shareholder equity and notes to the financial statement. The presentation currency is the Chilean Peso. Concerning accounting laws, all laws registered are defined by the Tax Code ("Código Tributario").

Currently, Chile has tax treaties in force with 32 countries. These countries are: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, France, Ireland, Italy, Japan, Malaysia, Mexico, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russia, South Africa, South Korea, Spain, Sweden, Switzerland, Thailand and the United Kingdom. Also, tax treaties have been signed with the USA and Uruguay but they are not yet in force. Under these treaties, residents of foreign countries are taxed at a reduced rate, or are exempt from Chilean income taxes on certain items of income they receive from sources within Chile. These reduced rates and exemptions vary among countries and specific items of income.

2. Income Tax

The Chilean income tax system can be defined as an integrated system, given that the corporate tax may be credited towards final taxes on dividends the owners should pay. As corporate profits flow from incorporated businesses to the owners, the corporate tax that was previously paid works as an advanced tax payment, being creditable against the final tax of the owners.

These final taxes would be:

a. The Global Complementary Tax ("Impuesto Global Complementario"), which levies income of Chilean resident individuals with a progressive tax rate from 0% to 35%.

b. The Additional Withholding Tax (WHT), which levies the income of non-resident individuals or entities with a general tax rate of 35%.

As a general rule, resident companies should pay Chilean income tax on their worldwide income. Taxpayers without residence in Chile must pay income tax on their Chilean-source income. This latest is considered as such when the income is received while performing activities within the country, as of services for businesses and income from property, dividends, royalty and others. Therefore, the income is sourced where the service is provided.

The taxation income on which taxes are calculated is defined as the gross income from worldwide sources, to which deducted costs of goods and services and expenses incurred in earning such income. The cost of locally acquired goods will be the purchase price, to which may be added the cost of freight and insurance to deliver to the taxpayers' premises. For imported goods, it will include CIF value, plus Customs duties and charges, as well as local freight and insurance costs as above. Expenses incurred in the acquisition, maintenance or exploitation of assets not used in the regular course of business are not deductible.

2.1 First Category Tax (Corporation Tax)

The Chilean income tax law is described in detail in the Decree Law 824 of 1974 and it is administered by the Chilean Internal Revenue Service (SII).

As a consequence of a Tax Reform enacted on 29 September 2014 some important aspects of the Chilean tax system were changed.

Amongst these changes, the Tax Reform established that taxpayers of the First Category Tax (FCT) obliged to carry and declare their effective income according to full accounting, had to choose between two new general tax regimes that are in place from 2017 onwards: the Attributed Income Regime and the Partially-Integrated Regime. Final taxation (i.e. at the Chilean final owner's level or at the foreign owner's level) will depend on the income tax regime to which the Chilean entity is subject to.

2.1.1. Attributed Income Regime (also called Regime A)

Under this regime, the corporate income tax is 25% calculated on a company's annual income, which will be immediately allocated to their owners, being the corporate tax fully creditable against final taxes. Under this regime, the owners will pay taxes every year based on the annual results of the company, not taking into account the effective dividend distributions.

This regime is only available for companies other than corporations, whose partners are exclusively final taxpayers (i.e. Chilean resident individuals and/or non-Chilean resident taxpayers. In certain cases, companies by shares will be able to opt for this system, provided they meet certain requirements. Additionally, this regime is the default system to those taxpayers who do not expressly choose to be subject to the other Partially Integrated Regime and who have partners, owners, or co-owners who are exclusively individuals domiciled or resident in Chile.

Under this regime the total tax burden of foreign owners of Chilean incorporated businesses will be 35%. See example below:

Calculation of final taxes under Regime A

Taxable income	100.00
First Category Tax FCT (25%)	25.00
Gross up amount	100.00
Additional WHT (35%)	35.00
Tax credit (100% of FCT paid)	(25.00)
Difference to be paid	10.00
Total taxes paid in Chile (FCT plus difference to be paid)	35.00
Total tax burden	35%

Source: PWC

2.1.2. Partially Integrated Regime (also called Regime B)

For this regime, the applicable tax rate is 25.5% in 2017 and 27% from 2018 on.

Owners are only taxed on the actual distribution of dividends or profits by the company. Chilean final owners subject to the Global Complementary Tax or foreign owners subject to the 35% Additional withholding tax (WHT) are levied with these final taxes upon effective

distribution of profits, with a tax credit of 65% of the First Category Tax paid at the entity level. However, if the owners are resident in a tax treaty country, they are allowed to use 100% of the corporate tax paid as a credit against Additional WHT.

Stock corporations, limited joint-stock entities, and companies that at least have one shareholder who is not a final taxpayer will be mandatorily subject to this income taxation regime.

The total tax burden upon distribution of profits will be 35% or 44.45%, depending on whether the foreign owner is or is not a resident of a country with which Chile has a DTT in force.

Therefore, final owners subject to the Additional WHT, residents, or those domiciled in a tax treaty country will have (as same as in the case of Attributed Income Regime) a total Chilean tax burden of 35%. For foreign investors resident in a non-tax treaty country, total Chilean tax burden will be 44.45% once the 27% FCT rate becomes applicable in commercial year 2018. This total tax burden of 44.45% is calculated as follows:

Calculation of final taxes under Regime B (for non-tax treaty countries)

Taxable income	100.00
First Category Tax FCT (22%)	27.00
Dividend Distribution abroad	73.00
Gross Up amount	100.00
Additional WHT (35%)	35.00
Tax credit (65% of FCT paid)	(17.55)
Difference to be paid	17.45
Total taxes paid in Chile (FCT plus difference to be paid)	44.45
Total tax burden	44.45%

Source: PWC

2.1.3. Common rules for both new taxation systems

Taxpayers will have to be subject to one of the aforementioned systems for at least five years. After such period, they may change from one system to another. However, in order to change from one system to another, all FCTs due will need to be paid as if the company had ceased in its activities. Additionally, companies subject to the Attributed Income Regime will change to the Partially Integrated Regime as of 1 January of the year in which one of its owners is an entity who is not a final taxpayer.

Capital gains are usually taxed as common income, with some exceptions (i.e. originated from the disposal of some assets) provided that some requirements are met.

Tax losses can be carried forward with no time limitation. They are not transferable and should be used only by the taxpayer who incurred the losses.

Taxpayers will need to keep a registry regarding the accumulated tax credit balance in order to control the available First Category Tax credit.

In addition, a voluntary payment of the First Category Tax (FCT) is established in case the company has no corporate tax credits available for the use of the final owners. In the case of Regime A, these voluntary FCT payments will be deductible from net taxable income, while under the Regime B, they will be considered as a tax credit against the FCT due.

2.2 Second Category Tax (Personal Income Tax)

Foreign workers or executives the Indian company decides to appoint in Chile (on a temporary or permanent basis) could be subject to the payment of Personal Income Taxes.

As said before, every person working and living in Chile, resident or nonresident is subject to Chilean income tax. All entities resident or domiciled in Chile are taxed on their worldwide income. Non-residents are only taxed on their income earned in Chile.

In order to be considered to be a resident, a person has to have lived in Chile for more than 6 consecutive months within a calendar year, or for more than 6 months in total over two consecutive years.

For residents, the personal income tax is called Global Complementary Tax ("Impuesto Global Complementario"), which levies income with a progressive tax rate from 0% to 35%.

Tax on income from employment (which considers salaries, bonuses, gratuities and other forms of remuneration) is deducted from the gross salary by the employer and subsequently paid over to the SII. Other incomes must be declared on an annual income tax return; nevertheless, tax payment on employment income can be credited against the total tax liability.

For non-residents and non-domiciled the personal tax rate is 15%. If the activities are technical or professional services, a tax rate of 35% has to be paid on their Chilean-source income alone.

3. Other Corporate Taxes and Contributions

This chapter details other notable taxes and contributions Chilean incorporated businesses could be subject when doing business in Chile.

3.1 Value Added Tax (VAT)

The Chilean VAT tax law is described in detail in the Decree Law 825 of 1974 and it is administered by the Chilean Internal Revenue Service (SII).

As a general rule, a 19% VAT applies on the price of the following goods and services, amongst others:

- Sales and transfers of tangible goods located in Chile and on real estate also located in Chile and owned by a construction company, provided such operations are performed on a recurrent basis.

- Commercial, financial and intermediation services, when either rendered or consumed in Chile. Professional, consulting and technical services are generally not subject to VAT.

- Import operations, whether customary or not. Exports are exempted from VAT.

When the taxpayer sells goods or renders services subject to VAT, the VAT charged becomes a VAT fiscal debit, which may be offset with the carried-forward VAT fiscal credit. This latest corresponds to the VAT charged in the invoices supporting acquisitions of goods, utilization of services, imports operations and other VAT-taxable operations.

The positive difference between the fiscal debit and the fiscal credit represents the VAT payable by the VAT taxpayer. If the VAT fiscal credit exceeds the VAT fiscal debit, the excess can be carried forward indefinitely.

The VAT Law establishes some relief mechanisms that may either exempt certain operations from VAT. This is the case, for instance, of certain capital goods forming part of capital

contributions provided some requirements are met. Also, import of raw materials used in the manufacturing of goods for export may be exempt from VAT, subject to approval by the Internal Revenue Service.

3.2 Duty taxes

The tax treatment applicable to imports into Chile includes the payment of customs duties, Value Added Tax (VAT) and other taxes (if applicable), all calculated on CIF value and determined under GATT valuation standards.

The ad-valorem customs duty rate is 6%. However, goods originating in any of the countries or regions having signed a Commercial Agreement with Chile and evidencing such condition by means of a Certificate of Origin can be benefited with a reduction or exemption of import duties.

Chile has signed 25 Commercial Agreements with 66 countries, which have granted tariff preferences which each country applies to imports.[1]

India and Chile have signed a Partial Scope Trade Agreement (PSA) giving Indian leather and leather product imports into Chile some tariff preferences.

3.3 Municipal license tax

Companies and in general any entity performing lucrative activities should pay an annual municipal license fee at rates ranging from 0.25% to 0.5%, applied over the tax-adjusted equity, up to a maximum of approximately US$ 500.000 (this amount varies according to inflation and exchange rates). This tax is allocated among the municipality in which the taxpayer has an office, factory or other establishment.

3.4 Real Property Tax

Real property taxes are imposed to their owners at an annual rate of 1% to rural properties and 1.2% on non-rural ones, calculated on the cadastral value. Surcharges (such as municipal cleaning service) could be added.

[1]Find the list of countries and the complete texts of Commercial Agreements signed by Chile, by clicking on this link: www.direcon.gob.cl/acuerdos-comerciales/

3.5 Social Security Contributions

The following contributions to social security should be made by entities that employ one or more persons:

- Labor-related accident insurance, at a monthly rate of 0.95%, premium on remuneration and capped at a floating amount.
- Additional contributions according to the risk of employment activity, at a monthly rate up to 3.4%.
- Life and disability insurance, at a monthly rate of 1.41%.
- Unemployment insurance, at a rate of 2.4% (3% for fixed-term contracts) and capped at a floating amount.

3.6 Stamp Tax

The stamp tax is applicable mainly on documents evidencing indebtedness for borrowed money, including loans (national or foreign), notes and bond issuances. Current rate is 0.066% for each month or fraction thereof between disbursement and maturity, capped at 0.8%. For loans payable on demand or without a maturity date, are subject to a 0.332% stamp tax.

The stamp tax is applied over the principal amount of the debt.

3.7 Mining tax

Also known as a mining royalty, this tax is structured as an income tax on “mining operational taxable income” obtained by a mining operator.

The tax rate is progressive. It is between 5 and 14 % for annual sales exceeding 50,000 metric tons of fine copper; and between 0.5 and 4.5 % for operators with annual sales between 12,000 and 50,000 metric tons of fine copper. Production below 12,000 metric tons of fine copper is tax exempt.

The value of a metric ton of fine copper is calculated according to the average value in the respective business year recorded in the London Metal Exchange (LME).

3.8 Green taxes

The last Tax Reform settled that new, light and medium motor vehicles (with some exceptions) should pay an additional tax for a single time. This tax is expressed in Monthly Tax Units (UTM) and is calculated upon a formula contemplated in the norm, based on the vehicle urban performance and emission of nitrogen oxides.

In addition, a tax is imposed on natural and legal persons to the air emissions of particulates, nitrogen oxides, sulfur dioxide and carbon dioxide produced by turbines or boilers which individually or together, make up a thermal power greater than or equal to 50 MWt.

4. Tax Incentives

Following are some of the main incentives entities could apply for, provided they meet some requirements.

4.1 Incentives for R&D investments

Investments in research and development (R&D) activities could be deductible as a tax expense. They may be deducted in the same year that they are incurred (whether paid or accrued), or at the taxpayer's option, for up to six consecutive business years.

Subject to certain conditions, 35% of the investment in R&D (capped at approximately US$ 1.2 million per year) could be used as a tax credit against First Category Tax, while the remaining 65% could be deductible as a tax expense.

Under this special regime up to 50% of the R&D activity may be developed in a foreign country.

To be eligible, investments should be of a minimum amount of approximately US$ 8.000 and must be previously approved by CORFO.[2]

4.2 VAT cash-refund for investment in fixed assets

This benefit is ruled by the article 27bis of the Decree Law 825 of 1974 (VAT law)

Companies can request a cash refund for the VAT-credit borne in the purchase of fixed assets, under the following conditions:

- The VAT borne must qualify to be a VAT-credit under general rules, that is, the company must be engaged in activities subject to VAT and the VAT borne must be related to those activities.

[2]CORFO is the Chilean economic development agency that supports and encourages investment, innovation and entrepreneurship through different programs and subsidies.

- The VAT-credit must be related to the acquisition of tangible personal property (i.e. machinery and equipment) or real estate destined to be part of the fixed assets of the taxpayer, or to services that are needed to integrate its cost value.
- The VAT-credit must have accumulated for at least six or more consecutive monthly periods.

The refund should be requested to the Internal Revenue Service (SII), which as a maximum term of 60 days to accept or refuse it. Beyond this deadline, the request would be considered as accepted and the Chilean Treasury should do the refund within a 5-day term.

The amounts refunded through this mechanism must be repaid to the Chilean Treasury in case the company does not carry out activities that are subject to VAT after the refund is obtained.

4.3 Special regime for Small and Medium Enterprises (SME)

The Tax Reform established a new preferential framework for taxation of SME under certain conditions. Amongst these latest are that the annual average sales of the company should not exceed approximately US$ 1.8 million in the last three fiscal years, limited annually to approximately US$ 2.2 million.

Main benefits of this regime are:

- SME are allowed to use a simplified accounting procedure based on income and disbursements, paying taxes only on the positive difference. In cases of losses, nor the SME nor its owners will pay taxes and will be able to deduce losses the following year. In case SME shareholders are all Chilean resident individuals, their income will not be subject to corporate tax, but subject to final taxes only.
- Withholding tax exemptions for certain services provided by non-residents.
- An extended term to pay VAT to the Chilean Treasury.

4.4 Southernmost and Northernmost Regions

Provided certain conditions are met, companies investing in the Southernmost and Northernmost regions of Chile are entitled to tax credit for investments in these regions,

consisting of new buildings (except of land cost) and machinery. The tax credit may be up to 32% of the investment.

5. Anti-avoidance Rules

Following are some rules companies operating in Chile should carefully take into account in order to comply with tax regulation.

5.1 Transfer Pricing (TP)

Primary issues covered by the Chilean Transfer Pricing rules are in line with the OECD recommendations. They are ruled by the Law 20.630 of 2012.

The operations that are covered are basically any type of cross-border transactions between related parties, including, for example, purchase and sale of products, furnishing of services, financial transactions, technology transfers or transfer of rights to use patents, trademark and copyrights.

Upon request from the Internal Revenue Service (ISII), taxpayers must prove that their operations with related parties have been made at arm´s length values, by applying some of the following methods: Comparable Uncontrolled Price Method, Resale Price Method, Cost plus Method, Profit Split Method and Transactional Net Margin Method. Exceptionally, if none of the referred methods can be applied due to special circumstances and this is duly justified, another reasonable method will be allowed.

5.2 Thin Capitalization

The thin capitalization rules apply to related-party loans.

A 35% withholding tax (WHT) is applied over interest payments made abroad, unless a reduced rate is applied under a Tax Treaty provision. A reduced 4% WHT applies under certain conditions (i.e. interest paid by loans granted by foreign banks and financial institutions).

In case the company is in an excess of indebtedness position (in a debt-to-equity ratio of 3:1), an additional 35% taxation is levied on the excessive interest payable by the local debtor.

The excess of indebtedness of a taxpayer is calculated on an annual basis, and considers its total annual indebtedness that is loans, domestic or foreign with related parties or not.

5.3 Overreaching General Anti-avoidance Rule (GAAR)

The last Tax Reform has enacted an overreaching general anti-avoidance rule ("GAAR"), according to which tax obligations are triggered based on the legal nature of acts performed by taxpayers, regardless of their form or denomination given by the parties to the transaction.

The Chilean GAAR also recognizes the principle of good faith of taxpayers. However, if a taxable event as set forth by the law is eluded by means of acts of abuse or simulation executed by the taxpayer, no good faith would be deemed to exist.

"Abuse" is defined as the total or partial avoidance, reduction or deferral of a tax by means of one or more actions or dealings that do not have any relevant legal or economic effects other than tax effects. "Simulation" is defined as actions or dealings that conceal the existence or the elements of a taxable event, or the taxable event's true amount or triggering date.

The existence of abuse or simulation must be declared, by a tax court, upon the requirement of the National Director of the Internal Revenue Service (SII). In the proceeding, the Chilean tax authority has the burden of proof of abuse or simulation.

6. Conclusions

Indian companies willing to invest and create a company in Chile must deeply understand country's tax regime.

The Chilean income tax regime is an integrated system, in which the corporate tax may be credited towards final taxes on dividends the owners should pay. The percentage of credit will depend on the regime (Attributed Income or Partially-Integrated income) the company had chosen. In addition, other acts and sectors are subject to specific taxation regimes that

companies should know and comply with, in order to avoid applicable penalties that could be severe in certain cases.

In addition, Chile offers some tax incentives that could be attractive for companies meeting certain requirements.

Chile has tax treaties in force with 32 countries, but India is not among them yet. Preliminary conversations have been held at this regards between both countries, but no official negotiations have started yet in order to reduce of exempt of income taxes to residents of both countries. However, it is worth mentioning that both countries have adhered to the Convention on Mutual Administrative Assistance in Tax Matters (MAAT) for the effective implementation of the international standards on tax transparency and exchange of ownership, accounting and financial account information between countries.

As a general rule, it is recommended that Indian companies willing to invest in Chile ask for legal advisory on tax and other related matters. Several multinational and local law firms and tax advisory companies provide comprehensive services to foreign companies, such as the recommendation of the most adequate corporate form or structure (according to each company profile), guidance on tax law compliance and on how to take advantage of tax incentives, among others.