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Chile – Tax Reform Package Brings Changes to Taxes Affecting Individuals

by KPMG Auditores Consultores Ltda., Chile (a KPMG International member firm)

New tax reforms in Chile will decrease the rates of individuals' Surtax, introduce a one-time voluntary cash repatriation system, as well as a new tax-preferred savings system for taxpayers subject to the Surtax. The law also amends the taxation of real estate sales and the general anti-avoidance rules, and increases the rates of Corporate Income Tax.

Why This Matters

Individuals – including those on international assignment – subject to Chilean taxation may see their tax burdens lightened as a result of the amendments to the Surtax and the taxation of savings and investments. Some changes will enter into force immediately while others, such as the decrease in tax rates, will not become effective until 2017.

Assignment cost projections for Chilean inbound and outbound assignments, where those assignees will be subject to Chilean taxation, should take these tax changes into account.

Also, the voluntary repatriation program should offer some relief to those taxpayers who inadvertently failed to disclose income and assets in offshore jurisdictions and failed to meet their Chilean tax obligations as a result.

On September 29, 2014, Law 20.780 was published in the Chilean Official Gazette, ushering in several reforms of Chile's tax system.[1] The reforms will be introduced over a period of time – different amendments coming into force at different times – beginning on October 1, 2014 and with final implementation by January 1, 2017.

Individuals Subject to Surtax

In Chile, resident individuals are assessed a "Surtax" (Global Complementary Tax/*Impuesto Global Complementario*) which is a progressive tax in respect of their worldwide personal income.

The Second Category Tax (*Impuesto Unico de Segunda Categoría*) – a tax on employment income withheld by the employer – and the Surtax, are calculated on the basis of a regulated Monthly Tax Unit (MTU) or *Unidad Tributaria Mensual*.[2] The rates of tax range from 5 to 40 percent.

As of January 1, 2017, new tax rates will apply to taxpayers of both taxes. As a result, the top marginal rate of tax (the highest tax rate applicable) will be 35 percent instead of 40 percent. Please note that this change will not be applicable to officials of the Chilean government (such as the president, senators, members of Congress, etc.) who will still be subject to the existing top marginal rate of 40 percent.

Voluntary Repatriation of Assets

From January 1, 2015 until December 31, 2015, a voluntary and one-time cash repatriation system to "regularize" outstanding tax obligations related to undeclared/unreported income will be available for taxpayers domiciled and resident in Chile before January 1, 2014. This system will not be applicable for any income derived from countries or jurisdictions classified as "high risk" or "not-cooperative" in terms of money laundering prevention and the financing of terrorism according to the Financial Action Task Force. The income declared under this system will be subject to a single rate of tax of 8 percent. This tax will not be deductible as an expense or available to be offset by means of a tax credit, with respect to corporate or personal income taxes. The Chilean IRS will have 12 months from the payment period of the tax to audit the compliance records of the taxpayer (the details will be published in a future Resolution of the Chilean IRS).

New Tax-Preferred Savings Plan

Finally, as of October 1, 2014, a new tax-preferred saving and investment regime entered into force for taxpayers subject to the Surtax; however, a Resolution is pending approval by the Chilean IRS that details the procedures and instructions regarding this regime. In general terms, this new regime provides that payers of the Surtax could annually invest up to 100 Annual Tax Units (ATU), approximately USD 83,800, in deposits, savings accounts, and mutual funds, as defined, as long as the investment is not redeemed by the taxpayer and remains saved in said savings/investment instruments that are issued by institutions as defined in the law. There are conditions and restrictions with respect to a taxpayer's ability to avail of this new savings regime – interested parties should consult with their financial planning and tax advisers.

Tax Treatment of Real Estate

Under new rules, when individuals domiciled or resident in Chile dispose of real estate, the gain realized will not be subject to taxation, regardless of the number of dispositions that take place or the number of properties sold up to a total capital gain amount of 8,000 Development Units (approximately USD 330,000). (The Development Unit – *Unidad de Fomento* or UF – is an inflation-indexed accounting unit with respect to the Chilean peso.)

The excess might be subject to final tax with the option to pay a single tax rate of 10 percent. Specific advice should be sought regarding the determination of the acquisition cost and the taxability of the effective sale of the property.

Footnotes:

1 See *Reforma Tributaria que Modificia el Sistema de Tributación de la Renta e Introduce Diversos Ajustes en el Sistema Tributario – Ley Número 20.780* – on the Web site for the *Biblioteca del Congreso Nacional* at: http://www.leychile.cl/Navegar?idNorma=1067194 .

2 The MTU is a currency unit for general use in respect of payment of taxes, fines, or customs duties. The MTU is assigned a value in terms of Chilean pesos, and this value is adjusted regularly by the government according to the consumer price index. The Annual Tax Unit (ATU) is equivalent to the MTU for December of the year multiplied by twelve.

3 Ibid.

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For additional information or assistance, please contact your local GMS or People Services professional or Antonieta Rodriguez Mosquera (tel. +56 2798 1435, e-mail: antonietarodriguez@kpmg.com), a tax Managing Director with the KPMG International member firm in Chile.

The information contained in this newsletter was submitted by the KPMG International member firm in Chile. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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