



TaxNewsFlash

United States



No. 2023-221
June 22, 2023

Tax treaty update: Senate votes to approve income tax treaty with Chile

The U.S. Senate today voted (95-2) to approve the income tax treaty with Chile.

Under the U.S. Constitution, the U.S. Senate must approve, by a two-thirds vote, treaties that are negotiated by the executive branch. The Senate does not ratify treaties. Instead, the Senate takes up a “resolution of ratification” by which the Senate formally gives its advice and consent, empowering the president to proceed with ratification by mutual notification of completion of the necessary approvals by both countries.

The Senate’s approval of the treaty was subject to two reservations made necessary by changes to U.S. tax law since the treaty was signed in 2010. The first clarifies that the treaty shall not prevent the imposition of the base erosion and anti-abuse tax (BEAT) under section 59A, and the second modifies to Article 23 (Relief from Double Taxation) of the treaty to account for the repeal of the indirect foreign tax credit under former section 902 and its replacement with the dividends received deduction under section 245A.

Chile completed its process of approval of the treaty in 2015, but without the reservations. So, Chile must now approve the reservations. Thus, the treaty will not be ratified and enter into force until Chile completes that additional approval process and mutual notification of approvals by both countries is made.

If the treaty is ratified, the withholding provisions would become effective for amounts paid or credited on or after the first day of the second month following the date on which the treaty enters into force. For all other taxes, the provisions would take effect for tax periods beginning on or after the first day of January following the date the treaty enters into force.

The Senate’s declarations in the resolution of ratification (which do not need to be approved by Chile) note that further work is necessary to evaluate the policy behind the relief from double tax article to account for changes in law made in the Tax Cuts and Jobs Act. Future tax treaties may therefore incorporate a modified version of the relief from double taxation article to reflect updated treaty policy.

Documents

- Read text of the [United States-Chile income tax treaty](#) [PDF 2.9 MB] as signed on February 4, 2010.
- Read the [resolution of advice and consent to ratification](#) [PDF 382 KB]
- Read a [note](#) [PDF 160 KB] regarding the treaty.
- Read the Treasury Department's [technical explanation](#) [PDF 459 KB] of the pending treaty with Chile.

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