LAGOS

TAX ALERT

Foreign investment reporting requirement

Taxpayers domiciled or resident in Chile are required to annually report their foreign investments through various sworn statements, including the following:

> Sworn Statement Nº 1929, relating to transactions abroad, which must include, among other information, details regarding financial investments, investment accounts, foreign entities, real estate, insurance or investment policies held with foreign companies.

> Sworn Statement Nº 1952, relating to trusts, under which trusts established under foreign law must be reported, identifying the settlor, trustee, and beneficiaries of the structure.

Both Sworn Statements must be filed no later than June 30 of each year. Timely filing is particularly important for the following reasons:

> It facilitates the recognition of foreign tax credits, particularly in respect of foreign withholding taxes on dividends, interest, redemptions, or capital gains, which may, subject to the applicable requirements, be credited against Chilean taxes.

> Depending on the circumstances, it may reduce the risk of audits regarding the source and justification of investments, as the filings provide supporting evidence regarding the origin, existence and performance of the investment over time, including the periods in which they were acquired.

> In the case of income subject to taxation in Chile, consistency between Sworn Statement Nº 1929 and the Annual Tax Return (Form 22) is essential to avoid automated alerts arising from tax information cross-checks and their associated effects, such as the withholding of tax refunds, audits, and investmentjustification proceedings.

> In the case of Sworn Statement Nº 1952, failure by the settlor to file the statement gives rise to a rebuttable presumption that the establishment of the trust constitutes abuse or simulation under Chile's general anti-avoidance rule.

Without prejudice to the foregoing, we note that penalties may apply in cases of non-filing, late filing, or filing of incomplete or inaccurate statements. The amount of such penalties will depend on the specific reporting obligation breached and the circumstances of each case, and may reach significant amounts, with the regime applicable to Sworn Statement Nº 1952 on trusts being particularly onerous.

We further note that these penalties are subject to the general statuteoflimitations applicable to fines, namely, three years from the date of each infringement. The Chilean Internal Revenue Service has the authority to grant full or partial remission of certain penalties, in accordance with applicable legal provisions and current remission policies.

In light of the foregoing, taxpayers domiciled or resident in Chile who hold investments or structures abroad that have not been timely reported through the corresponding sworn statements, may wish to consider a voluntary regularization. This may include the filing of the omitted statements and, where applicable, an application for remission of the applicable penalties, with a view to maintaining, on a going forward basis, accurate and consistent tax records relating to their foreign investments.

These considerations are especially relevant given that the Chilean Internal Revenue Service currently receives financial information annually from multiple foreign jurisdictions under the Common Reporting Standard (CRS), the standard developed by the OECD for the automatic exchange of financial account information. This mechanism may cover, among other instruments, certain financial investments and investment-linked insurance policies held with foreign institutions.

In this context, maintaining an orderly and consistent Chilean tax record of investments held abroad is a fundamental aspect of tax management for any investor with international assets.