LAGOS

TAX ALERT

Temporary regime for the disclosure and repatriation of offshore assets

I. BACKGROUND

The National Reconstruction Bill provides for a temporary regime for the disclosure of assets held abroad. The regime will remain available for a period of 12 months, beginning on the first day of the third month following publication of the law in the Official Gazette.

This memorandum summarizes the principal features of the regime, which may be relevant for taxpayers domiciled or resident in Chile who hold assets abroad, including insurance policies and capitalization accounts with foreign companies, whether or not such assets have previously been reported for Chilean tax purposes.

II. AVAILABLE DISCLOSURE OPTIONS

The temporary regime will be available to taxpayers domiciled or resident in Chile in respect of assets or income held abroad in the following circumstances:

1. Regularization of Undeclared Assets and Income (10% or 7% Rate)

First, the regime allows taxpayers to disclose foreign assets and income that were subject to Chilean taxation but were not duly reported or taxed in Chile.

Taxpayers may also disclose assets and income located in Chile where they hold the beneficial interest through foreign companies, entities, trusts, fiduciary arrangements or nominees.

This option is similar to the regimes introduced as part of the 2014 and 2024 tax reforms, in that it allows taxpayers to regularize the Chilean tax treatment of foreign assets and income that were not previously reported in Chile.

A single tax in lieu of the taxes otherwise applicable will be levied at a rate of 10% on the value of the assets and income disclosed.

The rate will, however, be reduced to 7% where the disclosed assets and income are effectively repatriated to Chile and remain invested in Chile for at least five years in certain qualifying assets specified by law. These include: (i) real estate located in Chile; (ii) securities meeting the requirements of Articles 104 or 107 of the Chilean Income Tax Law; and (iii) public or private debt or equity instruments whose ultimate underlying assets are located in Chile and represent at least 80% of the value of the investment.

For these purposes, the Bill allows up to three years from publication of the law for the repatriation to be completed, thereby allowing for an orderly divestment process abroad.

2. Repatriation of Income Not Yet Subject to Chilean Tax (7% Rate)

As a significant departure from previous regularization regimes, the National Reconstruction Bill also allows certain foreign-source income that has legitimately not yet been subject to taxation in Chile to be brought within the temporary regime.

The regime applies to income that has not been subject to Chilean tax because:

> (i) it has not yet been received by a taxpayer domiciled or resident in Chile;

> (ii) the Chilean controlled foreign entity rules applicable to passive income have not applied; or

> (iii) more generally, no other provision has required the taxpayer to recognize the income for Chilean tax purposes.

In these cases, a 7% substitute tax will apply solely to the income generated by the relevant assets, and not to the value of the underlying assets themselves.

Access to this treatment requires the effective repatriation of the income covered by the disclosure, which must remain invested in Chile for at least five years in qualifying assets. These include: (i) real estate located in Chile; (ii) securities meeting the requirements of Articles 104 or 107 of the Chilean Income Tax Law; and (iii) public or private debt or equity instruments whose ultimate underlying assets are located in Chile and represent at least 80% of the value of the investment.

During this five-year period, the investments may be replaced with other qualifying investments in Chile. Failure to comply with the minimum holding period will result in repayment of the relevant tax differential, together with a penalty equal to 20% of the amount disclosed.

This option may be particularly relevant for taxpayers with accumulated income abroad that has not yet become subject to Chilean taxation. For individuals, provided the requirements for the reduced 7% rate are met, the applicable rate may be up to 33 percentage points below the maximum 40% rate of Chilean Personal Income Tax.

The analysis must nevertheless be undertaken on a case-by-case basis. In particular, where foreign taxes have already been paid at rates equal to or higher than those applicable in Chile, those taxes may, subject to the relevant requirements, be available as foreign tax credits against Chilean taxes. In such circumstances, the temporary regime may be less attractive.

III. ASSETS AND INCOME ELIGIBLE FOR DISCLOSURE

Only assets or rights that the taxpayer can substantiate as having been acquired before January 1, 2026, together with income derived from those assets up to the date of the disclosure, may be brought within the regime.

Eligible assets include, by way of example, movable and immovable property, shares or interests in foreign companies, rights to benefits under a trust or similar fiduciary arrangement, foreign currency, financial instruments or securities such as bonds, fund interests, deposits and similar instruments payable in foreign currency, cryptoassets or virtual assets, as well as income derived from such assets.

Assets or income located, at the time of disclosure, in countries or jurisdictions classified by the Financial Action Task Force (FATF) as high-risk or non-cooperative for anti-money laundering or counter-terrorist financing purposes may not be included in the regime.

The regime also contains certain exclusions applicable to taxpayers in specified legal circumstances or where the relevant assets or income have previously been subject to audit action by the Chilean Internal Revenue Service.

IV. EFFECTS OF THE DISCLOSURE

The principal effects of filing the disclosure are the following:

1. Conclusive Presumption of Good Faith. Upon filing the disclosure and paying the applicable tax, the taxpayer will be conclusively presumed to have acted in good faith in connection with the failure to report or comply with the relevant obligations.

2. Extinguishment of Liability. Once the 12-month period available to the Chilean Internal Revenue Service for review has expired, civil, criminal and administrative liability arising from breaches of foreign exchange, tax, corporate and securities laws will be extinguished by operation of law in respect of both the disclosed assets or investments and the income generated by them and included in the disclosure.

3. **Simplification of International Structures**. Subject to certain requirements, foreign corporate and fiduciary structures may be unwound on a Chilean tax-neutral basis, allowing the underlying assets to be treated, for all legal purposes, as held directly by the Chilean taxpayer, provided the relevant entities are dissolved or the fiduciary arrangements are terminated.

4. Tax Basis Step-Up. Once the substitute tax has been paid, the value determined for the disclosed assets will become their tax basis for all Chilean tax purposes and will thereafter be adjusted in accordance with the applicable rules. This step-up may have a direct impact on the calculation of future capital gains.

Finally, for purposes of the penalties contemplated in Article 97 Nº 4 of the Chilean Tax Code, failure to make use of the regime will constitute an aggravating circumstance.