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Chile:
New amendments to the Tax Modernization Project in the field of tax on digital services used in Chile provided by foreign companies

On August 23, 2018, the Chilean government sent for discussion in the Congress the Tax Modernization Project in order to perform a series of adjustments to the current Chilean tax regulations.

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Chile:
Nuevas modificaciones al Proyecto de Modernización Tributaria en materia de Impuesto a los Servicios Digitales prestados por empresas extranjeras cuando dichos servicios sean utilizados en Chile

El 23 de agosto de 2018, el gobierno chileno envió para discusión en el congreso un Proyecto de Modernización Tributaria, con el objeto de realizar una serie de ajustes técnicos a la actual normativa tributaria chilena.

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Peruvian Government approves procedural and financial rules for the promotion of housing construction

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Chile: New amendments to the Tax Modernization Project in the field of tax on digital services used in Chile provided by foreign companies

Estudio Jurídico Otero

Chile

On August 23, 2018, the Chilean government sent for discussion in the Congress the Tax Modernization Project in order to perform a series of adjustments to the current Chilean tax regulations.

Regarding the digital services, the Tax Modernization Project initially sought to introduce a new specific and indirect tax, substitutive of any other tax, with a tax rate of 10%, to apply on digital services provided by non-Chilean companies, regardless of the location of the platform or server that supports such services, when this digital services are used in Chile by individuals.

The latest indications to the Tax Modernization Project made on July 3th, as a result of the discussions that have been held about the Project, and under OECD recommendations that aimed to apply the VAT to digital services rendered by digital platforms instead to apply to such services a specific tax with a reduced rate, confirmed that finally the Chilean Government has dropped plans to impose a specific tax rate of 10% on digital services, and instead the last modification to the Project has proposed regard such services as subject to 19% VAT, equating the tax burden between those companies that sell goods and services in a conventional manner and those that do it in digital form.

Within the digital services that would be affected by the VAT tax rate are: digital intermediation services, enter-

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finally the Chilean Government has dropped plans to impose a specific tax rate of 10% on digital services, and instead the last modification to the Project has proposed regard such services as subject to 19% VAT”

tainment services for digital content (such as movies, music, videos, games, etc.) whether they are provided through download, streaming or other technology; paid advertising services abroad and for the use and subscription of technological services platforms and also hosting services; paid data storage services such as clouds, software as services, among others. In other words, services such as Netflix, Spotify, iCloud, Airbnb, Dropbox, Google Drive, Smartphone applications, among others, as well as the purchase of digital books, digital newspapers and digital magazines will



The purpose of collecting 19% VAT for digital services is to create a scenario where the rules are the same for both, digital platforms and formal companies”

be subject to 19% VAT rate.

To ensure proper compliance with the collection and payment of the VAT, the Tax Modernization Project contemplates the creation of a registry for foreign digital platforms, which must be registered in Chile, along with withholding and paying the VAT on their products. In the previous Project, the withholding and payment obligation was only established for banks and financial institutions.

Also, the payment of VAT rate for digital services will be substitutive of any other tax, in other words, the digital platforms that pay the VAT, will be exempt from paying the additional tax regarding the individuals.


The purpose of collecting 19% VAT for digital services is to create a scenario where the rules are the same for both, digital platforms and formal companies, i.e. that both type of companies bear the same tax burden, equaling the digital economy with the rest of the traditional economy. Regarding this, the Chilean Minister of Finance indicated that the fundamental idea is that all companies are subject to the general taxation regime, and that digital companies cannot be exempt from paying taxes, or be granted with more favorable conditions than traditional companies. As an example, today companies like Airbnb compete directly with the hotel industry, and while hotels pay VAT Airbnb not.

> **Unresolved issues in the Tax Modernization Project regarding digital services taxation**

The project established a legal presumption: It will be presumed that digital services are being used in Chile when the issuers of the means of payment are entities domiciled or resident in Chile, or Chilean branches of such entities, and therefore these services will be subject to 19% VAT. However, the project does not solve the problem if the digital services paid in this form are to be used outside of Chile. Does this services also subject of VAT even if they are not used in Chile only because were paid using a Chilean credit card or a Chilean bank account? This would be the case for an Airbnb booked to be used abroad for vacations for example.

On the other hand, what will happen if the digital services are paid with other means of payment that do not involve the cards issued in Chile or that are not made through Chilean banking institutions? For example, crypto currencies? How the tax authority will be able to audit or even force to comply the law in these circumstances? [Does this leave open the possibility of avoiding the VAT?](#)

It must be also considered that, [foreign companies subject to 19% VAT, do not have the possibility of recovering VAT as credit](#), which is what companies in Chile usually do.

A large, light grey world map composed of many small dots, serving as a background for the text.

It remains to be seen [how this will affect the users](#) of such services, will the companies providing digital services transfer 100% of the tax to users?, will the VAT decrease the demand of consumers for this type of services? Most likely consumers will be the most affected by the measure, since the additional costs would be transferred to them.

Peru: Peruvian Government approves procedural and financial rules for the promotion of housing construction

Estudio Laos, Aguilar, Limas & Asociados

Peru

As a part of sectoral policies to increase domestic and foreign investment in Peru, the Peruvian Government enacted two rules to encourage housing construction, especially when Lima is a metropolis with vertical growth, and there is still an unmet offer, mainly from the segment of young professional workers, better known as Millennials.

On May 30 of the current year, through [Law 30952](#), the “[Young Rent Bonus](#)” is created, which aims to create a subsidy for housing rental and the generation of savings for access to them, aimed at young professionals who wish to acquire an apartment.

The total amount of the Young Rent for Housing Bond is distributed as follows:

- a) A percentage of the Housing Lease Bond is used to cover the payment of the rental of the house for a maximum period of 05 years, giving the voucher to the developer, the real estate company or the owner of the house,
- b) The other remaining percentage of the bond mentioned above is destined to be part of the savings, oriented to the payment of the initial installment or part thereof, for the acquisition of a future home,
- c) Upon expiration of the 05 years of the payment of the bonus by the State, the beneficiary-tenant department has the right to request the disbursement of the savings used to pay the purchase

of housing, without prejudice to apply early if tenants pay the Initial fee purchase of the department.


The beneficiary of the Young Rent Bond can be:

- 1) The family group or group of at least two non-dependent persons, of Peruvian nationality.
- 2) Be between 18 and 40 years of age.
- 3) Not be owner or co-owner of housing, land or independent air for house.

In parallel, the Peruvian Government promulgated [Law No. 30933](#), which aims to establish a simplified, agile, and effective procedure to proceed with the eviction.

This [new mechanism of restitution to the owner](#) of his apartment or house is only applicable to the locals use to housing; therefore, it is not useful for commercial locals due that those cases have another efficient mechanism called “[allanamiento futuro](#)”. The owners or lessors of real estate to avail themselves of the benefits of this Law, [require](#):

- 1) The property subject of notary eviction must be individualized.
- 2) The lease must be contained in the Unique Form of Lease of Property for Housing (FUA).
- 3) Incorporate a clause for potential future eviction,



in order to recover the property from lessee for the expiration of the contract or the resolution of the lease for non-payment of rent.

- 4) Incorporate a clause for extrajudicial execution of the eviction by Notary or Judge.
- 5) Enter the number, type and currency of the bank account opened in financial entity for the payment of the rent agreed in the lease.

Produced the cause of eviction, as indicated in paragraph 3) above, it will be necessary to go to the Notary, who notify the lessee so that, within a period of five (5) business days of receipt of the communication, prove not to be incurred in some of the indicated causes. After the response of the tenant, the Notary verifies and establishes if the causes of eviction are applicable. If it is positive, the Notary draw up a minutes and put on record the expiration of the contract or the resolution of the lease for non-payment of rent. Also, submit a copy of the record to the relevant judge in the jurisdiction of the property, to order quick removal of renters an the payment of the costs of the notarial process as well as judicial.

It is expected that with these mechanisms, investment in the construction of housing for the young segment will be encouraged, in this way to boost the national economy.

Mexico: The next professionalization of the Labor Boards in Mexico to become Judicial Courts in Labor Matters

Bitar Abogados

Mexico

The latest modifications and reforms to the Labor Law in Mexico, which entered into force on May 2, 2019, will be a new era in the application and administration of labor justice in México.

The implementation of this new law will take place gradually within an approximate period of two to four years in which it will be duly operating with Judicial Courts in the Matter of Labor, which will allow the professionalization of the litigants in this matter and personnel that will integrate the Labor Courts, to give a legal certainty to those who will already be labor lawsuits and not procedures considered outside the judicial field. With this we hope that the old labor practices disappear in which it was enough that a simple worker attended a Labor Board of Conciliation and Arbitration, asking for help from any person who was in the corridors or stairs and had a friendship with the secretaries and / or archivists to initiate a procedure without the proper advice of a trial lawyer. By creating a stronger legal system for the application of the Federal Labor Law, the excessive time periods in which the procedures that went from two to six years were previously processed will be reduced to less than half and the new trials will be prevented lengthen unnecessarily, looking like a constant race of resistance in which the winner between the employer and the worker was the one who managed to resist the most throughout these procedures. Among the new aspects with the reform of the Labor Law among others, the domestic workers are recognized, creation of Conciliation Centers for the conclusion of Agreements, license for parents with

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the excessive time periods in which the procedures that went from two to six years were previously processed will be reduced to less than half”

children suffering from cancer, oral judicial procedure, trade union democracy, equity of gender and discrimination. Likewise, the Federal Center for Conciliation and Labor Registration is created, which will have as its purpose, among other things, the issuance of the Certificate of Representation with which it will be accredited that the Trade Unions were elected with at least 30% of the representativeness of the regulated workers under the Collective Work Contract. With the entry into force of the new labor reform, which will be gradually incorporated, there will be on the one hand the alternative of being able to reach a conciliation through the mediation system and on the other an oral judicial procedure that will allow the trials to be resolved with greater speed and formality than currently in the Local Conciliation and Arbitration Boards.