

# Chilean Government submits amendments to the Bill on Tax Compliance Obligations

Tax Newsletter – April 02, 2024

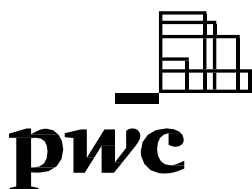
Yesterday, April 1<sup>st</sup>, the **Government** presented to the House of Representatives a **series of amendments** to the **Tax Compliance Bill within the Pact for Economic Growth, Social Progress, and Fiscal Responsibility**, known as the "Tax Compliance Bill," **Bulletin 16621-05**, which, as a reminder, **aims to collect 1.5% of Gross Domestic Product (GDP)** through measures aimed at preventing evasion and avoidance, and modernizing tax administrations.

The bill that was submitted for processing at the end of January of this year, contemplates the modification of various legal bodies, and consists of 7 thematic pillars: **i)** Modernization of tax administration and Tax and Customs Courts; **ii)** Informality control; **iii)** Tax crimes; **iv)** Aggressive tax planning; **v)** New powers for the Taxpayer's Ombudsman; **vi)** Regularization of tax obligations; **vii)** Institutional strengthening and probity.

After discussions and negotiations on the topic, the Government submitted an initial set of **amendments to the bill aiming to modify certain aspects of the initiative** such as notification issues, revocable donations, termination of business operations, measures against informality, the procedure for the return of article 27 bis, control of passive income abroad, among others.

The Executive Branch stated that the proposed tax modifications do not alter the revenue projections outlined in the latest Financial Report and therefore would not impact the fiscal budget.

Below, we analyze and summarize the main aspects of the amendments presented by the Executive Branch.



## I. Amendments to tax regulations in the bill:

### 1. Notification system:

The original bill established email notification as the general rule, with exceptions where not possible, and provided for the possibility for taxpayers to appoint a "digital proxy," authorized to carry out all kinds of actions through the SII website using their personal key.

Now, the amendment aims to **modify the implementation timeline of this new system**, postponing it from 3 months after the bill's approval to **May 2025**.

Additionally, the method of **notification for resolutions modifying real estate assessments or real estate tax is also being amended, stipulating that in these cases, notification will also be by email.**

### 2. Related parties provisions:

In this aspect, the amendment is submitted with the purpose of modifying the new rule on related parties to exclude, as a general rule, siblings as related persons.

### 3. Revocable Donations:

In the first drafts of the bill, it was specified that **revocable donations are also subject to taxation**, as well as the allocation of assets located or registered in Chile, or acquired with resources from the country, in both cases where the donee is domiciled or resident in Chile.

The amendment adds that the taxpayer expressly has the possibility to **request a refund from the Treasury of the tax paid on account of a revoked donation, within a period of 3 years.**

It is also noted that **the tax borne on a revocable donation will be a credit against the inheritance tax applicable to the donated asset.**

### 4. End-up of activities:

Regarding the provision stated in the original bill, the Executive Branch is proposing an amendment to **regulate the procedure for end-up of activities by the SII.**

Under this amendment, if the taxpayer has not submitted all the necessary documents, the SII must provide a 5-day period to do so. If the taxpayer fails to comply, the SII will issue a resolution terminating the procedure, expressly stating the documents not provided.

### 5. New measures against informality:

The amendment proposes to add two new measures against informality:

- It modifies the offense outlined in Number 17 of Article 97 of the Tax Code, which **allows for the seizure of goods transported without complying with tax obligations**, whether they are counterfeit or prohibited for commercialization.
- Additionally, it **expands the SII's authority to establish the obligation to implement traceability procedures for any type of goods** (which, until now, has been restricted to goods subject to specific taxes).

## **6. Refund procedures per article 27 bis of the VAT Law:**

This amendment aims to establish that **the obligation to repay, at least one-tenth of the VAT refunded under Article 27 bis of the VAT law annually, will be calculated from the commercial fiscal year in which the taxpayer begins conducting taxable operations subject to VAT.**

Additionally, the **deadline for repayment will be a maximum of 15 years counted from the fiscal year following the one in which the refund was requested by the taxpayer.**

## **7. Procedures for appealing real estate assessments:**

In this matter, the Executive proposes the following modifications to the procedure to readjust it as follows:

- It expressly recognizes that **the deadline for claims regarding general assessment processes will be 180 days from the publication of the assessments.**
- Additionally, the **procedures for claims regarding individual modifications are not subject to the grounds of the general procedures**, but rather maintain their current status.

## **8. Tax anonymous informant:**

The bill introduced the figure of substantial collaboration and also defined that of the anonymous informant.

In this sense, the amendment made seeks to **eliminate the reward for these anonymous informants.**

## **9. Assess power and business reorganizations:**

The first draft of the bill completely reformulated the rule governing the SII's power to assess transactions (Article 64 of the Tax Code), establishing objective valuation methods and redefining the cases in which business reorganizations (national or international) will be considered tax-neutral (limiting the power to assess).

In this context, **amendments** are proposed to modify the proposed changes in the following aspects:

- The **explicit listing of valuation methods is removed.** It is added that the SII may suggest the use of valuation methods through a resolution.
- It is established that **taxpayers may provide all available evidence to demonstrate that the transaction was conducted at market values.**
- Lastly, concerning **corporate reorganizations, those involving the transfer of ownership of shares or rights to tax havens or entities exempt from accounting requirements** under generally applicable standards **are excluded.**

## **10. Transfer pricing – Tax havens:**

Another amendment proposed by the Executive is a **modification to the transfer pricing regulation**, establishing that **adjustments determined within an Advance Pricing Agreement will not be subject to the special rate under Article 21 on rejected expenses**, thus avoiding penalizing taxpayers who voluntarily enter into agreements with the tax administration.



## 11. Control of passive income abroad:

Finally, regarding passive income, the original bill originally amended the rule that alters the way profits generated abroad are recognized, in the sense that, for the purpose of calculating the limit of foreign accrued income triggering its application, related parties must be considered.

Now, with the proposed amendment, it is suggested that, concerning Article 41G on passive income of the Income Tax Law, **it will always be necessary to recognize on an accrual basis the profits generated in a company considered as passive income, when the entity is domiciled or resident in a country or territory classified as a tax haven, even if they do not exceed a total of UF 2,400 at the end of the respective fiscal year.**

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