

# The Tax Compliance Obligation Bill is approved



Tax Newsletter – September 27, 2024

On Wednesday, September 25th, the **Tax Compliance Bill within the Pact for Economic Growth, Social Progress, and Fiscal Responsibility** called the "Tax Compliance Bill", **Bulletin 16621-05**, was finally **approved**. Specifically, during the day, the House of Representatives reviewed the amendments introduced by the Senate, and an agreement was reached, meaning that the initiative will leave Congress and become law.

Thus, following the Senate vote and a positive report from the Finance Committee, the House of Representatives **ultimately approved the bill with 124 votes in favor and 26 against**.

Regarding the amendments made on Tuesday, September 24th, in the Senate, these proposals were also approved by a large majority. In this way, the National Congress passed the tax compliance bill into law.

Let us remember that this Tax Compliance Law aims to collect 1.5% of the GDP, approximately US\$ 4.500 million, in full operation, and will allow the Executive to add around US\$ 1.200 million to the 2025 Budget. It is expected that these funds will be allocated to improving the Universal Guaranteed Pension, reducing waiting lists, and increasing resources in the area of security.

Below, we will analyze and review the main aspects of this approved bill that modifies various legal frameworks:





## I. Modifications to the Tax Code

### 1. General Anti Avoidance Rule:

The bill modify several articles of the Tax Code in this area, ensuring that the General Anti-Avoidance Rule (GAAR) will undergo both clarity and coherence adjustments, as well as substantive changes.

One of the most important highlights is that, finally, the definitive text **maintained the existing judicial procedure** but introduced various substantive and procedural changes in the administrative arena.

Therefore, if the Director of the Internal Revenue Service (SII) wants to classify an act as evasive, the Revenue must first go to a Tax and Customs Court (TTA) to obtain the corresponding declaration.

Additionally, the concept of “**abuse**” and “**simulation**” now includes the element of “**improperly**” **gaining access to tax exemptions or benefits**. The message indicates that it is essential to abuse that it is considered “improper,” i.e., when the legal forms used do not align with the taxpayer’s desired economic effect. Thus, there will be **abuse** when a taxable event is avoided, the taxable base is reduced, refunds are obtained, or access is gained to a tax benefit or to a special tax regime, involving facts, actions, legal transactions, or a series of them. Moreover, the amendments specified a definition of when tax **avoidance** exists, which will occur when, through actions or legal transactions or a set of them, with abuse or simulation, **the taxable events** established in tax law provisions are **avoided**.

On the other hand, the “**principle of specificity**” is redefined, establishing as a rule that the application of the general anti-avoidance rule excludes the potential application of a special rule, and vice versa. Therefore, after various parliamentary discussions, it was regulated that the general anti-avoidance rule can be applied when tax avoidance involves a set or series of actions or legal transactions, even if, regarding one or more of them, individually considered, a special anti-avoidance rule could apply.

A six-year statute of limitations is established for reviewing actions or legal transactions under the general anti-avoidance rule, which will be counted

from the expiration of the legal deadline by which the payment should have been made.

Lastly, it was agreed that, to declare tax avoidance, the following conditions must be met: the actions or legal transactions or a series of them must have generated a **reduction in the taxable base equal to or greater than 1,000 UTM (roughly US\$ 74,000)**; or access must have been gained to a tax benefit; or entry must have been made into a special tax regime.

### 2. Governance provisions of the Internal Revenue Service (SII):

The bill also establishes a series of rules that will **empower the Chilean IRS to allow a territorial unit (Regional Directorate) to cover taxpayers outside its jurisdiction**, safeguarding their guarantees.

In this context the law **creates two new councils** within the SII: an internal council called the “**Executive Committee**”, and an external council named the “**Tax Council**”.

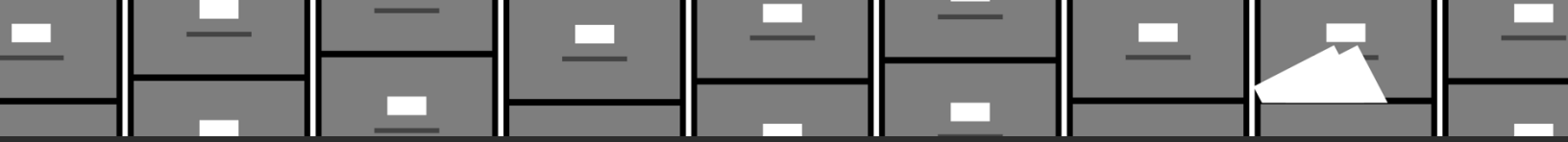
#### A. **Executive Committee:**

This committee will have a series of **functions to counterbalance the powers of the Director of the SII**, as it will be composed of the Deputy Directors of Auditing, Legal, and Normative Affairs of the Agency, who will no longer be appointed by the Director but through the Senior Public Management (ADP).

Therefore, the National Directorate of the SII will no longer consist solely of its Director but also of these three Deputy Directors.

This body will be responsible for evaluating whether the SII should initiate an investigation process under the anti-avoidance rule.

Additionally, the **auditing** process will be directed by the **General Anti-Avoidance Rules Department**, in coordination with the Regional Directorate or the Large Taxpayers Directorate, as applicable. Therefore, it **will have a say in the appropriateness of classifying an act as tax avoidance before a Tax and Customs Court (TTA)**.



Once the auditing stage is completed, the General Anti-Avoidance Rules Department must prepare a report that includes, at a minimum, the analyzed background information, the taxpayer's arguments, and the reasoning for classifying the acts or legal transactions, or a set or series of them, as constituting or not constituting tax avoidance. The report must be signed by the officials in charge of the audit and by the head of the Department

Additionally, the Committee may provide opinions on the filing of **complaints or lawsuits exceeding 1,200 UTA (roughly US\$ 1 Million); the reward for anonymous informants; transactions or operations with institutional interest; and assessments, resolutions, and charges arising from the above.** The Committee's decisions must be unanimous among its members.

### **B. Tax Council:**

The Tax Council will have **binding authority over the legality of Circulars Letters proposed by the Commissioner of the SII** that are subject to prior public consultation. These Circulars Letters can be rejected or approved with the vote of three out of the four council members. The Director of the SII will also be a member of the Council.

Additionally, the Council will have the authority to **review and provide opinions on the SII's oversight strategies, as well as evaluate the implementation of the latter**, though its opinion will not be binding.

Regarding its **structure**, the council members will be **appointed by the Minister of Finance** from a shortlist proposed by the Senior Public Management (ADP). They will serve **five-year terms** and will be subject to **disqualifications**, such as engaging in tax or legal advisory services and/or representing taxpayers administratively or judicially before the SII while in office; and having been convicted of an offense with an afflictive penalty, domestic violence, or any crime that permanently disqualifies them from holding a public office, among other specified disqualifications.

Lastly, it is noted that they may be compensated with up to 50 UF per session, with a maximum of 150 UF per month.

### **3. Business groups and tax sustainability :**

The Bill modified certain aspects of Article 8 of the Tax Code. It is important to highlight that, among the discussions, the new definition of "Business Group" was removed from the original bill, thereby maintaining the current reference to Article 96 of the Securities Market Law, and thus **there will be only one technical definition of a business group.**

Among the modifications in this area, the approved bill states that:

- It is established that every business group must designate a **"business group representative"**, this being understood as the natural person designated by the group to maintain communications and coordination with the SII, for the purposes of carrying out collaboration measures.
- It is established that, within the framework of an audit, both the Regional Office (or the Large Taxpayers Division) and the taxpayer may request the incorporation of entities outside the territorial jurisdiction of the former.
- The concept of **"tax sustainability"** is introduced, which seeks to positively recognize taxpayers who demonstrate cooperative and transparent behavior with the tax administration.

### **4. Notification system and legal representative:**

Notification by email is established as a general rule - protecting cases in which it is not possible - and the possibility is used for taxpayers to designate a "digital representative", who will be understood to be empowered to carry out all types of actions through the SII website using the corresponding personal password.

In addition, the **amend of the validity of this new system by postponing it from 3 months** after the approval of the bill **until May 2025, have been added.**

Likewise, the form of **notification of resolutions that modify real estate appraisals or real estate tax is also modified, establishing that in these cases it will also be by e-mail.**

## 5. Inspection/audit procedures:

A series of rules and adjustments are established to optimize the inspection processes, and their coherence with the special process of the GAARs. Some of these measures are:

- The **definition of actions that do not involve an inspection/audit process is adjusted**, and it is established that the same operations, transactions or events that have already been the subject of an inspection process may not be reviewed again, except for qualified exceptions (e.g. existence of tax crime). To do this, it will be required that said process has contained a "Citation" (defined in art. 63 of the Tax Code), unless it has concluded with a collection, liquidation, resolution or rectification.
- A new **article 59 ter** is incorporated whose purpose is **to regulate the inspection procedures of business groups**, expressly allowing the SII to develop unified inspections or for the taxpayer himself to request that the inspection be based at the domicile of his parent company.
- In article 63, which regulates the **procedure for subpoenaing taxpayers**, a modification is introduced that provides clarity to the procedure to be followed when, on the **occasion of responding to a subpoena, facts that may be classified as abuse or simulation become known**.
- A **new article 65 bis** is introduced that regulates cases where **a regional directorate resolves regarding taxpayers outside its jurisdictional territory**, an issue that occurs when there is an intragroup audit or when it is an audit of operations that could give rise to abuse or simulation and which includes taxpayers from different regional directorates.
- Certain statute of limitations periods are extended for failing to report modifications and unreported agreements.\* These periods will be extended or renewed by twelve months, as applicable, from the date they are reported to the Internal Revenue Service (SII) or from the date the SII detects the non-compliance. However, the maximum statute of limitations period, including the renewal, **cannot exceed six years**.

- **Furthermore:** the tax crime outlined in Number 17 of Article 97 of the Tax Code, **which allows for the seizure of goods transported without fulfilling tax obligations**, whether they are counterfeit or prohibited from commercialization, is modified.
- On the other hand, the **SII's authority is expanded 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. Duty of information and start-up activities:

The bill, as part of measures against tax evasion, includes modifications to the duties of information disclosure and adds the obligation for various public and private entities to require a declaration of start-up of activities from their users.

- **The statute of limitations is extended by twelve months** if the omission of the reporting duties regulated by Article 68 is detected, in cases where the non-compliance is intended to avoid tax payment, conceal the taxpayer, or avoid the application of a special or general anti-avoidance rule
- The **obligation** is introduced for **banking and financial entities to provide information** to the Internal Revenue Service (SII) when the account holder has verified that, **within a single day, week, or month, more than 50 credits have been made from 50 or more different individuals or entities, or that within a six-month period, at least 100 credits from 100 different individuals or entities have been made**. All of the account holder's accounts must be considered for counting the credits, and this information may serve as the basis for an audit process.

- **Operators of technological intermediation platforms** are required to demand a declaration of start-up activities from their supplier users, except for individuals who declare that they are not subject to the obligation to start-up activities. Additionally, the platforms will be required to demand proof of compliance with tax obligations from those offering their products or services, in the manner and timeframe determined by the Internal Revenue Service (SII) through a resolution. They will also be obligated to annually report to the SII the individuals and entities registered on the platform, and for those who declare they are not required to notify the initiation of business activities, the number of transactions and the total amount of these transactions.

## 7. Interest Calculation:

The bill completely modifies the **formula for determining the penal interest of tax debts**, to move to **a semi-annual determination based on operations of 1 year or more, readjustable in local currency, less than or equal to 2,000 UF (US\$ 84,000 approx.), reported by the CMF , plus 3.5%** (currently 1.5%).

## 8. Audit and control procedures for Financial Institutions:

It is established that the SII will implement a system that allows public services and agencies of a fiscal and semi-fiscal nature to transfer data and records requested by the SII for tax auditing purposes.

Additionally, **commercial banks are now required to verify the start-up of activities** of applicants for credit operations, loans, or any other transaction of a financial nature, when the applicant is a legal person or other type of legal entity. There will be penalties associated with non-compliance (1 UTA per omission, with a maximum of 500 UTA/US\$ 44,000).

## 9. Bank secrecy:

This was one of the most controversial and debated issues during the processing of the bill. We can distinguish: **(i) a general procedure**, subject to judicial

oversight, similar to the one currently in place but with shorter timeframes and greater protections for the taxpayer; and **(ii) an exceptional procedure** for qualified cases that would be more aligned with the lifting of banking secrecy as outlined in the Economic Intelligence Act.

### A. **General procedure:**

According to the general procedure it is established that the SII, within the scope of an audit and prior to issuing a summons, may require the taxpayer to provide their banking information. For this, the SII must specify the transactions or types of transactions or products subject to the request and the period it covers.

Similarly, response deadlines to the SII's request are set in **three specific cases:**

**(i)** when there is an agreement between the SII and the taxpayer; **(ii)** when there is no consensus between the parties; and **(iii)** when the seriousness of the facts under investigation warrants notifying the taxpayer after the information has been provided.

In general terms, the taxpayer will have a 10-day period to respond either positively or negatively to the summons in which the SII requests access to banking data, in addition to specifying the timeframe within which the information will be provided, which in any case cannot exceed 20 days. **If the taxpayer does not respond, it will be understood that they do not approve access**, unlike the original bill, which stated that if there was no response, the required person would approve the lifting of banking secrecy, also known as "positive silence".

However, if the taxpayer rejects the lifting of banking secrecy, the SII will only be able to gain access through the judicial procedure established in Article 62 bis (requesting access from a court). If the SII obtains a favorable ruling, or if an agreement is reached to lift the secrecy, the bank will have 10 days to provide the requested information.

## B. Exceptional procedure:

While, as a general rule, the taxpayer must be notified of the information request, an exceptional procedure is established when the access request is based on: **(1) audit procedures related to tax crimes** (punishable by fines or imprisonment); **(2) information obtained through the new rule requiring banks to report on taxpayers receiving more than 50 transfers or payments, or more than 100 from different people within certain periods, from different people**; and **(3) audit processes investigating discrepancies of more than 2,000 UF / US\$ 84,000 between the amounts declared by the taxpayer and the information held by the SII within the last 36 months, or repeatedly failing to comply with certain obligations**, such as not displaying accounting books and not maintaining proper accounting records.

In these cases, the SII must submit the request to a Tax and Customs Court (TTA), justifying the need to obtain the banking information to verify the accuracy and completeness of tax returns or the absence thereof. On the other hand, the judge will have five days to verify compliance with the requirements.

At the end of that period, the court must notify the SII of the ruling. If approved, the SII must send the request and the court's ruling to the respective bank, which will provide the information within 20 days.

### 10. Business reorganizations and assessment power:

The new article redefines the cases in which business reorganizations (national or international) will be considered tax-neutral (with the power to assess being inhibited).

The Internal Revenue Service (SII) may assess an act, agreement, or operation that serves as the basis or is one of the elements to determine a tax when the price or value in these cases differs significantly from normal market values.

The SII must issue a summons for the taxpayer to provide all evidence that can verify whether the act, agreement, or operation was carried out at normal market values.

The taxpayer may submit studies to prove normal market values through a valuation report that demonstrates the determination of the prices or values of the act, agreement, or operation under review.

It is established that **the power to assess will not apply to any type of business reorganization**, such as the conversion of an individual business owner or the contribution of assets of any kind, carried out by natural or legal persons, assigned within the national territory, as long as these reorganizations are **due to a legitimate business purpose**.

It is important to highlight that **the power to assess will also not apply to mergers and demergers, whether national or international**, as long as the tax cost of the assets is maintained in the absorbing or newly created company from a merger, in the company or companies created as a result of a demerger, or in the one receiving the contribution of one or more assets, and no actual cash flows arise for the contributor. Therefore, the requirement for a **legitimate business purpose in the case of mergers and demergers**, as contemplated in the original bill, is **eliminated**.

### 11. Self-Reporting of tax discrepancies:

Taxpayers are given the option to **self-report discrepancies in taxes that may constitute tax crimes**, along with the requirements for doing so:

- Submit a proposal for the tax returns to be corrected, which can include only the three years prior to the request.
- Not be under an audit procedure for the same taxes.
- Not have been convicted of tax crimes or subject to fines if opting not to file a complaint.
- Not have self-reported previously.

In these cases, the taxpayer will not be subject to a complaint or legal action, and such discrepancies will not be eligible for forgiveness of interest and penalties. However, they may enter into a payment agreement with the Treasury Service.

## 12. End-up of activities:

The bill establishes a **simplified end-up of activities procedure for SMEs** and also specifies the cases in which the Internal Revenue Service can officially decree the end of a taxpayer's activities/business.

Regarding **the procedure to cancel the end-up of activities procedure by the SII**, when the taxpayer has not submitted all the relevant documents, the SII must grant a period of 5 days to provide them. If not provided, the SII will issue a resolution canceling the procedure, expressly stating the documents not provided

Finally, the amendments provide clarifications on the procedure related to the end-up of activities. Specifically, a **positive silence** provision is introduced into the rule requiring the SII to review and issue the tax assessment corresponding to the termination of business activity within a six-month period. If this period elapses without the issuance of the assessment, the **taxpayer's submission will be deemed accepted**.

## 13. Tax Crimes:

In this matter, this future law establishes a detailed update of tax regulations. Specifically, **various modifications are introduced to article 97 of the Tax Code**, such as:

- Penalties for those who prepare, sell, or facilitate false tax documentation, as well as for those who do so to enable or facilitate the commission of offenses regulated in Number 4 of Article 97
- Greater fines for hindering the inspection when the taxpayer registers sales greater than 50,000 UF annually.
- The sanction for clandestine commerce is modified to clarify that it also applies to digital commerce.
- Increase in the sanction of closure of digital commerce, preventing the issuance of tax documents and even contemplating the suspension of the web domain, or suspension of access to the payment provider.

- Article 97 No. 22 is updated, referring to the crime committed by an official, punishing with minor imprisonment in its maximum degree and a fine of up to 10 UTA /US\$ 8,800, who authorizes electronic tax documents knowing that they will be used to defraud the Treasury.
- A new crime is added: the intentional distraction or decrease of assets in order to avoid the collection of tax debts.

## 14. Tax Anonymous whistleblower:

The figure of the **anonymous whistleblower** is introduced, guaranteeing the confidentiality of their identity and establishing the standards to be considered as such, including penalties (including criminal charges) for false or malicious reports. If the report is effective and successful, the informant may receive **10% of the fine** applied to the respective offender.

It is established that **the status of anonymous informant will be lost if anonymity is waived or if the report is publicized**.

To access the financial reward, which amounts to 10% of the defrauded taxes, the amount of the offense must exceed 100 UTA / US\$ 88,600.

Additionally, informants who lose their anonymity will be prohibited from receiving this compensation, and there are **penalties for maliciously false reports**.

Finally, **lawyers who have provided services within the three years preceding** the report are restricted from being considered anonymous informants.

## **15. Procedures before the Tax and Customs Courts:**

In this matter, the bill makes some adjustments regarding which court is competent when the administrative act being challenged was issued by a regional office different from the taxpayer's domicile. Other adjustments are aimed at modernizing procedures related to electronic files and notifications and introducing **modifications to procedures to facilitate better resolution of lawsuits. Notably, the special procedure for appealing real estate assessments has been eliminated**, transitioning to the general appeals procedure, which also implies the termination of Special Courts of Appeal.

However, in this regard, the following modifications to the procedure were established to readjust it as follows:

- It is explicitly recognized that the **deadline for appeals regarding general assessment processes will be 180 days from the publication of the assessments**
- On the other hand, the **procedures for appealing individual modifications are not subject to the grounds for general procedures** but rather maintain their current status.

## **16. Obligation of electronic payment methods and requirements for Sellers:**

Purchase and sale transactions **exceeding 50 UF (US\$ 2,100) and less than 135 UF (US\$ 5,700)** or their equivalents in foreign currency may be conducted using **any legally acceptable means of payment**, provided they are backed by any document that records the identity of the payer, as determined by the Director of the Internal Revenue Service (SII) through a resolution, or in an invoice that is subject to or exempt from tax. **If the payment is made in cash, this circumstance must be indicated on the respective invoice or document.**

If the above requirements are not met, the respective transaction must be carried out exclusively through electronic payment methods or any other payment method that allows for the identification of the payer.

This **applies to the entirety or total value of the transaction carried out**, and it is not possible to split the payment into amounts below the established limit or to make successive purchases for the same purpose.

However, this will not apply during emergency situations that affect the normal functioning of electronic payment systems, whether due to natural disasters or other fortuitous events or force majeure. The aforementioned exception will be recorded in a decree issued by the Ministry of Finance, either ex officio or at the request of the Central Bank of Chile.

On the other hand, new **requirements are established for habitual sellers of used goods**, who must issue tax documents that identify their suppliers, the goods acquired, their quantity, and origin.

## **17. Actions before the Treasury:**

A series of measures are established to update the procedure before the Treasury with its SII counterpart, along with modernizing some aspects. These are some of the highlighted measures:

- In terms of notifications, it is established that default notification will be via email.
- It is specified that the components of collection administrative files will be considered electronic or digitized documents, as appropriate.
- There is permission to extend agreement periods up to 3 years based on objectively applied criteria.
- For small and medium-sized enterprises (SMEs), they can always access agreements up to 18 months with an initial payment not exceeding 5% of the debt and with interest and fines waived.
- The articles allowing the restructuring of the uncollectible debt declaration system are reorganized to enhance efficiency. It is explicitly stated that after the 3-year period (1 for SMEs) from the declaration of uncollectibility, any action by the tax authorities will be time-barred.
- At the administrative level, it will be possible to request the prescription of tax debts in cases where the Treasury has not initiated the collection process.



## II. Modifications to the Income Tax Law (ITL)

The modifications to the ITL are limited to the control rules for **aggressive international tax planning**.

1. In Article 10, concerning **indirect sales**, the exclusion clause is specified. In cases of the alienation of entities from preferential tax regimes with underlying Chilean assets, exclusion occurs if **there are no individuals** with a domicile or residence in Chile who directly or indirectly hold 5% or more of the rights or shares being alienated.
2. The **principle of full competition (arm's length)** is expressly incorporated as a guiding factor in transfer pricing. In this context, the SII may question prices, values, or returns used in transactions between related parties if they have not been conducted at normal market prices, values, or returns.
3. **The procedure for Advance Pricing Agreements is modified**, adjusting it to operational reality to prevent it from becoming an obstacle to agreement signing. These changes align with the latest OECD recommendations (BEPS Actions 8 and 10), including the introduction of a voluntary or consultation stage and the retroactive application until 3 years.

Here, it was further specified through amendments from the Executive Branch, establishing that adjustments determined within an Advance Pricing Agreement will not be subject to the special rate (40%) under Article 21 regarding disallowed expenses, so as not to penalize taxpayers who voluntarily enter into agreements with the tax administration.

4. **The passive income rule is amended**, altering the recognition of profits generated abroad. For calculating the limit of foreign-earned income triggering its application, related parties must be considered. Likewise, following the change in the relationship rule, a presumption of relationship is established with respect to family relationships up to the second degree of consanguinity.

Additionally, regarding Article 41 G concerning passive income in the Income Tax Law, **profits generated in a company that the regulation considers as passive will always be recognized on an accrual basis when the entity is domiciled or resident in a country or territory classified as a tax haven, even if they do not exceed UF 2,400 (US\$ 101,000 approx.) in total at the end of the respective fiscal year.**

5. New regulations on **transfer pricing adjustments** are established.
6. The possibility of "**self-adjustments**" in transfer pricing is introduced.
7. In line with the recommendations of the Global Forum for Transparency and Exchange of Information for tax purposes and BEPS Action 5, **the criteria for qualifying a jurisdiction with a preferential tax regime are modified**

### III. Modifications to the VAT Law

#### 1. VAT on the acquisition of goods abroad:

In general terms, the **existing regime for digital services also applies to sales of goods located abroad** (and to remote services in general).

Therefore:

- The operator of a digital intermediation platform is considered a VAT taxpayer as if they were a regular seller or service provider, unless the respective buyer or user is a VAT taxpayer. In that case, a purchase invoice must be issued.
- If more than one platform jointly or simultaneously facilitates the respective operation, the platform authorizing or processing the payment for the taxed operation will be considered the taxpayer.
- Those determined taxpayers without domicile or residence in Chile will be subject to the simplified taxation system already in place for digital service providers.
- The possibility of designating payment card issuers or payment systems as withholding agents is extended when foreign providers do not adhere to the simplified system.
- It is established that movable tangible assets located abroad, acquired remotely by a non-domiciled or non-resident individual in Chile, by a person without the character of a seller or service provider, will be considered located in national territory when destined for it, provided their price does not exceed US\$ 500.
- **Low-Value Imports:** Another relevant issue relates to eliminating the VAT exemption that currently benefits imports of goods valued at up to US\$41.

To combat informal trade, it is now proposed to create a tariff exemption for the importation of goods, with a ceiling of up to US\$500 per unit. However, controls will be required, such as the use of credit or debit cards or limiting the number of purchases subject to the benefit.

#### 2. VAT on real estate:

Business reorganizations: the SII may assess and collect VAT on movable and immovable tangible assets that form part of the immobilized assets, carried out by the company that creates or subsists on the occasion of a business reorganization, when the main purpose of this has been to avoid the payment of the tax.

#### 3. Authority to assess VAT:

The possibility is introduced for a taxpayer to request the assessment of the VAT to be paid when they provide evidence that they are unable to determine it themselves.

In this regard, the procedure for assessing the taxable base is restricted by incorporating into Article 20 of the law (applicable when the taxpayer is unable to determine the tax to be paid) the stipulation that when sales determined by the Internal Revenue Service (SII) **do not exceed 2,400 UF (US\$ 101,000).**

#### 4. Export VAT:

Exporters who cease their activities are required to **demonstrate that they have exported, in the last 36 months, an amount equivalent to the refunded tax**, in accordance with Article 36 of the VAT Law. If they do not comply, they must return the proportional part of the refund, unless they are in bankruptcy liquidation.

Additionally, if an exporter with an advance refund is merged into another company during a reorganization, the new company will retain the rights and obligations of the refund without the need to return what has already been refunded, as long as the original project continues.

#### IV. Modifications to the Customs Ordinance

1. Incorporates the **safeguard resource** (“*recurso de resguardo*”) that, at an administrative level, safeguards the rights of those interacting with this agency. A catalog of rights susceptible to this resource is introduced
2. **Notifications:** As mentioned earlier, **email notification is established as the default notification** in the absence of express regulations. Additionally, the authority is granted to establish other notification mechanisms regarding customs brokers.
3. **Transfer pricing:** In line with amendments to the Income Tax Law, an explicit provision is introduced outlining the functions of the National Customs Service (SNA) within Advance Pricing Agreements.
4. Modifications are made to the **administrative review process** related to claims filed with the Tax and Customs Tribunal (TTA) in the following aspects
  - It is established that during the processing of the administrative review, the taxpayer must be given the opportunity to be heard and present the required evidence to resolve the request, unless the appeal is inadmissible or completely accepted by the Customs Service.
  - The evidence submitted must be evaluated based on sound reasoning.
5. **Donation and destruction of goods:** The National Director is empowered to authorize the donation of goods that would otherwise need to be destroyed. Additionally, in the case of goods subject to a criminal investigation lasting more than one year, their destruction may be authorized except for a sample that remains during the investigation.
6. **Fines and infractions:** Fines for errors in export customs clearances are reformulated, with the maximum fine increased from 5 to 10 UTM (US\$ 740), along with other sanctions.

7. Regarding the Tax and Customs Case Management System, which maintains an electronic record of all its procedures, cases, or judicial actions, it is established that no record may be deleted without prior decree from the court

This body may also require, if necessary, that the documents and evidence presented in a process be submitted in physical format, either on paper or through an electronic storage device.

#### V. Modifications to the Taxpayer Ombudsman's Office (DEDECON)

The **powers of DEDECON are increased**, mainly:

- Its scope of action is expanded to include the General Treasury of the Republic and the National Customs Service, and its role is extended to any type of administrative submission. Additionally, it can request tax information from the SII and the Treasury for better performance of its functions.
- Its authority to guide and accompany is extended beyond the protection of taxpayer rights, incorporating all aspects of tax compliance.
- The regulation is improved for greater effectiveness in the mediation process.
- It is expanded to cover the submission of complaints for the violation of taxpayers' rights.
- An obligation to provide an annual report on its activities to the Senate Finance Committee.
- Expanded powers to represent taxpayers in customs matters as well.
- An extension of the duty to hold regular meetings with the SII to promote cooperation with the tax authority and address taxpayers' issues and legal matters, now including the General Treasury and the National Customs Service. Additionally, a special duty of coordination and cooperation with the SII's Taxpayer Assistance Sub-Directorate is introduced.

## VI. Modifications to the tax on highly valued goods “Luxury Tax”

The bill incorporates modifications whose purpose is **to provide greater certainty in the application of its rules**, eliminating the large number of elements that were regulated by regulation and that have made the application of the tax difficult.

- The General Directorate of Civil Aeronautics, the General Directorate of Maritime Territory and Merchant Marine, and the Civil Registry are added to the list of public entities required to provide the SII with information about certain assets of the taxpayer.
- Exemptions related to sailing yachts are regulated. In this regard, the exemption for yachts used by high-performance athletes is extended to vessels weighing 1,500 kilos or less, whether they have been used in official regattas or not. This requirement will only apply to vessels of greater weight, provided they do not exceed 3,000 kilos.
- It is clarified that when the valuation rules for motor vehicles are not applicable, the SII will apply the normal market value.
- In the case of co-ownership of a property, co-owners will be jointly responsible for the tax, and the assessment can be issued to any of them (who will have the right to recover).
- The SII's authority to review and appeal assessments is regulated.

## VII. Transitory tax compliance measures

Regarding **transitory measures**, the bill proposes:

- (1) A procedure is established to **recognize capital held abroad and not declared in Chile**, through the **payment of a substitute tax at a rate of 12%**, which will fulfill all outstanding tax obligations.

There will be no obligation to repatriate the declared assets or income, but those who choose to do so must do so through banking institutions according to instructions from the Central Bank (when applicable).

Given the time it took to process this bill, the exercise of this option will have little time remaining, **as the deadline expires on November 30 of this year**.

- (2) The possibility is established for a taxpayer to request, regarding **an ongoing tax lawsuit** (excluding those involving tax crimes), an **early termination** with the **benefit of not being subject to accrued interest and fines**, and with the possibility of signing a payment agreement with the Treasury.

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