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LEGAL ALERT

Carey Tax Alert

On November 6, 2017, the Chilean Tax Authority (“IRS”) issued Ruling No. 2399/2017, which addresses a relevant issue related to the application of the Chilean Controlled Foreign Corporations (“CFC”) regime applicable to passive income obtained by foreign controlled entities.

By virtue of an exceptional rule of the CFC regime, passive income obtained by foreign controlled entities is not recognized in Chile if it does not exceed 2,400 Unidades de Fomento (“UF”) at the end of the corresponding business year. In this regard, the IRS’ ruling interprets that the limit of 2,400 UF must be calculated on the gross income of the foreign entity.

Notwithstanding the foregoing, it is our opinion that the meaning and scope of the CFC regime is sufficiently clear in stating that the limit of 2,400 UF must be calculated on the passive income of the foreign entity, which must be computed in Chile in the same way as the net taxable income of the corporate tax is determined, i.e., on a net basis.

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