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LEGAL ALERT

Circular No. 32 issued by the Chilean IRS: tax treatment of expenses incurred due to Covid-19

On April 29, 2020, the Chilean IRS issued instructions regarding the tax treatment of expenses incurred in connection with the health emergency caused by Covid-19. Additionally, the Tax Authority refers to the general requirements for all expenses and the tax treatment of some donations.

Regarding the general requirements on deduction of expenses

In accordance with Article 31 of the Income Tax Law, recently amended by Law No. 21,210, an expense is accepted for tax purposes if it meets the following requirements.

- Be necessary to produce the income. That is, those expenses that have the capacity to generate income, in the same or future years and are associated with the interest, development or maintenance of the business.
- Not be reduced as costs.
- Be paid or due in the respective business year.
- Be credited to the IRS.

As indicated in Circular No. 32, the need for an expense is a fact that is determined in consideration of the line of business or economic activity carried out by the taxpayer. This includes: (i) expenses related to business projects, to the extent that there is a reasonable link between the expenditure and the purpose of such expense (even though such purpose is not verified), and (ii) the maintenance of the activity or business, including those expenses related to risks, unforeseen events or contingencies inherent to the economic activity performed.

Expenses related to the Covid-19

Circular No. 32 has confirmed the tax treatment as an accepted expense of the

following items:

- Amounts incurred, voluntarily or obligatorily, by the taxpayers and which are intended to prevent, contain or reduce the spread of Covid-19.
- Those expenses intended to lessen the effects of Covid-19 and that are intended, in general, to protect the interests of the taxpayer's business, guaranteeing, for example (i) its present or future income; (ii) the maintenance or support of its workers, including payment of remuneration despite not having attended the work place; (iii) the implementation of strategic business plans and customer fidelity; and (iv) avoidance of further future outlays or any other outlays made in the interest or for the development or maintenance of the business.

Therefore, it is considered to be accepted as an expense: (i) all disbursements incurred in the acquisition of goods, such as masks, alcohol gel, liquid soap, medical devices, clothing or special equipment, among others, and (ii) the contracting of sanitation or disinfection services of facilities, among others.

These goods or services are not considered increases in taxable income for those who receive them.

In addition, Circular No. 32 refers to the tax treatment of certain donations made to the State and to certain specific institutions, such as individuals or legal entities under public law, foundations or private law corporations, universities recognized by the State and those that Chile makes to a foreign country.

The content of the Circular No. 32 can be reviewed here.

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