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LEGAL ALERT

Congress approves a bill that includes an instant depreciation regime for intangible assets consisting of industrial and intellectual property rights or a new plant variety

On Tuesday, August 18, the Congress approved a bill that contemplates several tax measures in order to inject liquidity and promote economic reactivation (the "Bill").

Among other measures, the Bill grants the possibility to Corporate Tax taxpayers who declare effective income according to complete accounting, to instantly depreciate 100% of the value of new or imported fixed assets acquired between June 1, 2020 and December 31, 2022.

In addition, the Bill extends this benefit to the same type of taxpayers who make investments in certain intangible assets intended for the interest, development or maintenance of the company, allowing them to be recognized as a tax expense in the same year in which they are acquired. After the benefit operates, said assets will be valued at CLP\$1.

In particular, the intangible assets eligible for instant depreciation are the following:

1. Industrial property rights regulated under Law No. 19,039, such as trademarks, invention, utility models, industrial designs, layout-designs or topographies of integrated circuits, geographical indications, appellations of origin, etc. This category considers, for example, a potential vaccine against the Covid-19.
2. Intellectual Property Rights regulated under Law No. 17,336, such as Copyright, and the rights of performers and producers of intelligence works in the literary, artistic and scientific fields, whatever their form of expression, and the related rights determined by them, with respect to the creation of books, theatrical works, musical compositions, photographs, sculptures, paintings, architectural models, computer programs, among

others.

3. Rights of the breeder of a new plant variety, in accordance with Law No. 19,342. This category considers, for example, new classes of seed.

The above would imply a modification with respect to the regulations incorporated by Law No. 21,210 on Tax Modernization. Currently, the benefit of instant depreciation is limited to 50% of the value of fixed assets acquired in the national territory between October 1, 2019 and December 31, 2021, except in the Araucanía, where the benefit comprises 100% of the value of the assets. The regulations before the Bill did not allow the depreciation of intangible assets.

Details on the application of this measure will be known once the law is enacted, with administrative instructions to that effect. This is notwithstanding the analysis of its applicability based on the reality of each company and its investment in intangible assets.

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