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LEGAL ALERT

Progress in the processing of the Tax Treaty between the United States and Chile

On March 29, the US Senate Foreign Relations Committee approved the Tax Treaty with Chile (the “Treaty”), subject to certain reservations that evidence the amendments incorporated to the US tax legislation by the Tax Cuts and Jobs Act in 2017.

This approval means a relevant milestone in the US legislative process as the Treaty was waiting for political consensus to move forward in the US Senate since its signature in 2010. Now the Treaty will move forward to consideration by the full Senate, where it will require a two-thirds majority for its final approval by the US.

The terms of the Treaty approved by the US Senate Foreign Relations Committee is subject to the following reservations: (i) none of its provisions may be construed to prevent the imposition of the "Tax on Base Erosion Payments of Taxpayers with Substantial Gross Receipts" tax on U.S. resident entities, or profits of Chilean resident entities that are attributable to a permanent establishment in the United States; and, (ii) the first paragraph of Article 23, which regulates the methods to eliminate double taxation from a US perspective, should be replaced to align it with the foreign tax credit system currently in force under US tax legislation.

The Treaty was signed in Washington D.C. on February 2010, and its original terms were ratified by the Chilean Congress in September 2015. The full text of the Treaty signed in 2010 can be accessed here.

Authors: Jaime Carey; Jessica Power; Manuel José Garcés; Manuel Alcalde