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TAX COMPLIANCE LAW: MAIN AMENDMENTS INTRODUCED IN CUSTOMS MATTERS

On October 24, 2024, the Chilean President enacted the Law No. 21.713, which aims to ensure compliance with tax obligations under the Pact for Economic Growth, Social Progress, and Fiscal Responsibility (the "Law"). The Law's main purpose is to safeguard tax interests by strengthening the mechanisms of control and inspection in the collection of taxes by both the National Customs Service ("SNA") and the Internal Revenue Service ("SII").

Taxes applicable to the importation of goods valued below USD 500

The Law introduces a new tax regime for the importations of goods into Chile, as follows:

• The exemption from the 6% customs tariff applies to imported goods valued up to USD 500.
• The exemption from the 19% of Value Added Tax ("VAT") for imports of goods valued below USD 41 is eliminated.

Consequently, all imports into Chile valued up to USD 500 will be subject to a 19% VAT calculated over the FOB value of the goods. Likewise, importations valued over USD 500 will be subject to a 6% customs tariff calculated over the FOB value of the imported products, and a 19% VAT calculated over the FOB value plus the relevant customs duty.

Additionally, the Law applies the VAT on purchases of foreign goods through remote means (e.g., digital platforms) intended for delivery to Chile up to USD 500, in which the purchasers are neither sellers nor service providers. For these purposes, the operator of the digital sales platform must be registered as a VAT taxpayer with the SII.

In this case, such imports will be exempted from VAT, provided that the importer proves to the SNA that the foreign seller or digital platform effectively charged this tax at the time of sale.

Other amendments of the Law

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• Fines applicable to customs infractions: if the SNA imposes fines for customs infractions, the audited party is entitled to accept the fine (allanamiento), in which case the Law increases the maximum amount of the fine that the SNA may impose to 20% of the legal amount applicable to the infraction. Otherwise, if the fine imposed by the SNA is challenged by the audited party and the claim is judicially rejected, the minimum fine cannot be less than 20% of the legal maximum.
• Price agreements between related parties to be jointly approved by the SII and SNA: the Law allows the related parties in international sales of products to enter into price agreements prior to the importation to justify that the transaction value aligns with the market value for the relevant goods. These agreements must be jointly approved by the SII and the SNA.
• Recurso de resguardo: the Law creates an action to protect the taxpayers' rights against potential breaches incurred by the SNA, which may be filed before the regional or national SNA's director.
• Right to amend the value in a Declaration of Entry: the Law introduces the right for importers to modify the declared value of the goods in a Declaration of Entry, provided that the importer declares that the final value might change and submits supporting documents for the corresponding amendment. In any case, the term for modification shall not exceed 18 months from the date of the importation.
• New fines for administrative infractions: the Law establishes new fines of up to 25% of the customs value of goods for: (i) withdrawing, allowing the withdrawal, or delivering goods from customs warehouses without meeting all the requirements for proper withdrawal; or (ii) storing goods in a place different from the warehouse declared in special customs regimes of temporary admission, private warehouse, or other storage regimes, or for failing to timely cancel them.
• Email notification: as a general rule, all notifications by the SNA must be sent via email and will be considered delivered on the date of the relevant email. For this purpose, individuals or legal entities acting before the SNA must provide an email address.

Effective dates of the Law's amendments

• The amendment establishing the VAT application to foreign purchases of goods made through digital platforms up to USD 500

will become effective 12 months after the publication of the Law in the Chilean Official Gazette (i.e., October 24, 2025).
• The amendment establishing the email notification for SNA actions will become effective on January 1, 2025.
• All the other amendments, including the customs duty exemption for imports valued below USD 500, will enter into force on November 1, 2024.

Note: On November 13, 2024, the Law No. 21.716 was enacted by the Chilean President and published in the Chilean Official Gazette. This law amends Law No. 21.713 by establishing, among others, that the exemption from the customs tariff applicable to imported goods valued up to USD 500 will become effective 12 months after the publication of the Law No. 21.713 in the Chilean Official Gazette (i.e., October 24, 2025). Consequently, such exemption will be implemented simultaneously with the other VAT amendments to importations of goods amounting up to USD 500. Until such date, all importation will be subject to the current tax regime, under which importations of goods valued up to USD 41 are exempted of taxes (customs tariffs and VAT).

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