

## CHILE

### TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein),*

#### **SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO TWO RESERVATIONS AND TWO DECLARATIONS**

The Senate advises and consents to the ratification of the Convention Between the Government of the United States of America and the Government of the Republic of Chile for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Washington February 4, 2010, with a Protocol signed the same day, as corrected by exchanges of notes effected February 25, 2011, and February 10 and 21, 2012, and a related agreement effected by exchange of notes on February 4, 2010 (the "Convention") (Treaty Doc. 112-8), subject to the reservations of section 2 and the declarations of section 3.

#### **SECTION 2. RESERVATIONS**

The advice and consent of the Senate under Section 1 is subject to the following reservations, which shall be included in the instrument of ratification:

- (1) Nothing in the Convention shall be construed as preventing the United States from imposing a tax under section 59A, entitled the "Tax on Base Erosion Payments of Taxpayers with Substantial Gross Receipts," of the Internal Revenue Code (as it may be amended from time to time) on a company that is a resident of the United States or the profits of a company that is a resident of Chile that are attributable to a permanent establishment in the United States.
- (2) Paragraph 1 of Article 23 (Relief from Double Taxation) of the Convention shall be deleted and replaced by the following:
  - “1. In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle thereof):
    - a) the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income applicable to residents and citizens the income tax paid or accrued to Chile by or on behalf of such citizen or resident. For the purposes of this subparagraph, the taxes referred to in subparagraph b) of paragraph 3 and paragraph 4 of Article 2 (Taxes Covered), excluding taxes on capital, shall be considered income taxes; and
    - b) in the case of a United States company owning at least 10 percent of the aggregate vote or value of the shares of a company that is a resident of Chile and from which the United States company receives dividends, the United States shall allow a deduction in the amount of such dividends in computing the taxable income of the United States company.”

### **SECTION 3. DECLARATIONS**

The advice and consent of the Senate under section 1 is subject to the following declarations:

- (1) The Convention is self-executing.
  
- (2) In light of substantial changes made to the international provisions of the Internal Revenue Code in 2017, the Senate declares that future tax treaties need to reflect such changes appropriately, including in Article 23. Therefore, based on discussions with the U.S. Department of the Treasury, additional work is required to evaluate the policy of Article 23 in addressing relief of double taxation and to agree on whether further changes to the terms of the Article are necessary for future income tax treaties.