

US-Chile tax treaty enters into force

Thirteen years after it was originally signed, a new tax treaty between the US and Chile finally entered into force on December 19, 2023. The agreement is especially welcome news for those US taxpayers with investments in Chile's significant reserves of lithium and copper, which are used in the batteries critical for many current and emerging technologies.

According to the announcement from the US Treasury Department, provisions in the US-Chile tax treaty include:

- Reduced source-country withholding tax on certain payments of dividends as well as payments of interest and royalties;
- A prohibition against source-country taxation of business profits of an enterprise in the absence of a so-called "permanent establishment";
- Beneficial rules for individuals, including provisions that govern the taxation of income from employment, payments to students and trainees, and pensions and social security payments;
- A comprehensive limitation on benefits provision; and
- A comprehensive provision allowing for full exchange of information between the US and Chilean tax authorities.

A long and winding road

Chile and the US initially signed the treaty in 2010, but it was not ratified before Congress passed the Tax Cuts & Jobs Act of 2017 (TCJA, P.L. 115-97). Because of the TCJA's base erosion and anti-abuse tax (BEAT) as well as its new rules regarding the distribution of certain foreign dividends, it was determined that the bilateral treaty (as well as several others) required changes before it could be ratified. Those changes—known as reservations—were worked out with the Treasury Department in 2022, but while the Senate Foreign Relations Committee approved the treaty with the additional language in March of 2022, the full Senate did not vote on it before the 117th Congress formally adjourned.

URL: <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

The Foreign Relations Committee again approved the treaty last June, this time accompanied by a new declaration addressing double taxation relief in future tax treaties. (For prior coverage, see *Tax News & Views*, Vol. 24, No. 22, June 2, 2023.) The declaration addresses concerns raised by GOP senators about the double taxation relief language in the Chile tax treaty without making changes to the treaty or the two reservations previously approved by the Foreign Relations Committee in May of 2022.

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230602_2.html

The full Senate overwhelmingly approved the agreement in June of 2023, by a vote of 95-2, and the Chilean government subsequently approved the new version. (For prior coverage, see *Tax News & Views*, Vol. 24, No.

25, June 23, 2023,) The US Treasury announced December 19 that both countries had completed the final steps in the ratification process.

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230623_2.html](https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230623_2.html)

For taxes withheld at source, the treaty will have effect for amounts paid or credited on or after February 1, 2024. For all other taxes, it has effect for taxable periods beginning on or after January 1, 2024.

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