Chile

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1. Types of tax

1.1 Inheritance and gift tax

Law No. 16,271 on Inheritance, Allocations and Donations Tax (hereinafter the "IH law"), levies the referred tax on donations and inheritance received by a person or entity resident or domiciled in Chile, of assets located in Chile, and also, donations and inheritance in favor of a foreign entity or person, consisting of Chilean source assets.

In the estate of a foreigner, neither domiciled nor resident in Chile, in which there are no assets located in Chile, and the assets located abroad were not acquired with Chilean resources, the IH law is not applicable. The same rule applies to gifts made abroad by a foreigner to a Chilean person or entity if the donated assets were not acquired with Chilean resources.

The IH tax is applied as a progressive rate that depends on the amount donated/inherited and ranges from 1% to 25%, with a 20% or 40% surcharge in case the relationship between the donor/deceased and the donee/heir is more distant or there is no relationship at all.

The IH tax is applied on the net value of each assignment or donation on a progressive rate, that is, the more distant the relationship of the person who inherits assets from someone who has died, the higher the tax will be; and since it is a progressive tax, the rate applied on the net value of each assignment or donation will depend on the amount of the same. Thus, the higher the value of the assignment, the higher the rate, and vice versa.

1.2 Real estate transfer tax

In Chile, there is no specific law that regulates real estate transfer tax. However, according to Chilean income tax law, the capital gain upon the transfer may be subject to income tax if transferred by an act between living persons, under certain circumstances. If transferred by gift or estate, IH tax will apply.

To determine the income tax on the sale or transfer of real estate, the following distinctions must be made before defining the applicable taxes:

- If the property was acquired before 2004, the law and rules in force at the time applies, so the sale will not pay income tax, unless the seller is customary in these operations or it is sold before the year of its acquisition.
- For real estate acquired after 2004, an exemption quota of 8,000 Unidades de Fomento or "UF" (around USD$320,000) is established for the life of the taxpayer, which releases the profits on the sale of the real estate, without establishing a maximum number of units. As an example, if in 2020 a person sells a real estate property acquired in 2004 with a profit of 6,000 UF (around USD$240,000), he/she will not pay tax on that profit and 2,000 UF (around USD$80,000) will still be available free of tax for future sales.

The above distinctions are only applicable to Chilean individuals with domicile in the country; Chilean entities are subject to corporate income tax upon the profit or capital gain.

1.3 Real estate property tax

The real estate tax is determined on the appraisal of the properties and its collection is destined in its totality to the municipalities of the country, constituting one of their main sources of income and financing.

The owner or occupant of the property must pay this annual tax in four installments, due in April, June, September and November.

Property appraisals are determined in the revaluation process and are updated semiannually with the variation of the CPI of the previous semester. The appraisals are modified when physical changes are made to the properties.

The annual property tax rates to be applied are different, depending on whether the properties are non-agricultural non-housing properties (1.088%), non-agricultural properties for housing (0.933% or 1.088%) or unbuilt sites, abandoned properties and ballast wells (1.088%).

On the other hand, non-agricultural non-housing real estate, including unbuilt sites, abandoned properties and ballast wells, and those housing real estate subject to the 1.088% rate, are additionally subject to a tax benefit surcharge of 0.025%, which is levied together with the taxes.

In turn, non-agricultural real estate subject to land tax, located in urban areas with urbanization and correspond to unbuilt sites, abandoned properties or ballast wells, are subject to a surcharge of 100% over the current rate of the tax. This surcharge does not apply in areas of urban extension or urbanizable areas.

The tax appraisals and exempted amounts, in force as of 31 December and 30 June of each year, are readjusted every six months as of 1 January and 1 July of each year, according to the percentage variation of the CPI in the immediately preceding six-month period.

In addition, the tax appraisal is used to determine the presumptive income of agricultural properties, calculation of maritime concession rights, reorganization of title deeds of the Ministry of National Property, inheritance taxes, discount of the value of the land in real estate businesses subject to VAT, and municipal rights for division or merger of land.

Finally, the land tax law considers general exemptions for housing and agricultural properties and special exemptions, for example, for properties used for worship, education and sports.

1.4 Real estate property surcharge

The last tax reform introduced an additional obligation for taxpayers who own one or more properties, whether they are individuals, legal entities or unincorporated entities, to pay an additional land tax surcharge applied to the tax appraisal of real estate that in the aggregate exceeds 670 Annual Tax Units ("Unidades Tributarias Anuales" or UTA, with each UTA equivalent to USD$840).

- It applies to individuals, legal entities and unincorporated entities that are direct owners of real estate.
- It does not apply to indirect owners or taxpayers under the SME regime.
- It is calculated on the total tax appraisal, that is to say, on the sum of the tax appraisals of each of the real estate properties owned by the same taxpayer.
- Marginal rate is by brackets, from 0.0075% on 670 UTA of total tax appraisal, up to 0.275%, on 1,510 UTA.

This surcharge became effective with tax year 2020, and it is accrued annually as of 1 January each year, considering the real estate registered in the name of the taxpayer as of 31 December of the previous year.

1.5 Endowment tax

There is no endowment tax in Chile.

1.6 Net wealth tax

There is no net wealth tax in Chile.

2. Who is liable?

As a general rule, inheritances and donations of Chileans are subject to IH tax:

- If the deceased had his last domicile in Chile, the assets located in the country, as well as abroad, will be subject to this tax.
- In case the deceased did not have his last domicile in Chile, only the assets located in Chile are subject to the same tax.
- However, in the successions of foreigners, the assets located abroad must be listed in the inheritance inventory only when they have been acquired with resources coming from Chile.

Therefore, IH tax applies to the worldwide assets of Chilean residents. Also, all and only the Chilean assets are subject to tax if the deceased was not a Chilean resident at the moment of death.

Taxes paid abroad for the assets listed in the inheritance inventory could be used as a credit against the IH tax.

Regarding donations, the application of the aforementioned rules leads us to conclude that, if the donor is domiciled in the country, donations or gifts of assets located in the country and abroad are subject to tax. Otherwise, if the donor is not domiciled in Chile, the tax is only applicable to donations of assets located in Chile.

2.1 Residency

Regarding the concept of residence, the Chilean Tax Code defines resident as "any person who remains in Chile, uninterruptedly or not, for a period or periods that in total exceed 183 days, within any 12-month period."

Regarding the concept of "domicile," and in the absence of a legal tax definition in our legislation, we must resort to the concept of article 59 of the Civil Code: "The domicile consists of the residence, accompanied, real or presumed, by the intention to remain in it."

The Chilean tax authority has stated that a temporary residence visa alone is not sufficient to establish the constitution of domicile, nor is the acquisition of real estate for the purpose of spending future vacations. On the other hand, subject to verification by the tax authorities, an element of judgment to determine whether domicile has been constituted is the fact that, in addition to acquiring a real estate property, the taxpayer uses it as his and his family's residence, his children study there and he has an employment contract.

3. Rates

IH law establishes a progressive rate tax depending on the amount donated or inherited, ranging from 1% to 25%, with a 20% or 40% surcharge, in case the relationship between the donor and the donee is more distant or there is no relationship at all.

In accordance with said regulation, the tax will be applied on the net value of each assignment or donation, according to the following progressive scale and the procedure explained below:

Inheritance, allocations and donations tax scale[1]				
Rank	**Lower limit (UTM)**	**Upper limit (UTM)**	**Rate**	**Fixed deduction (UTM)**
1	0,1	960	1%	0
2	960,01	1920	2.5%	14,4
3	1920,01	3840	5%	62,4
4	3840,01	5760	7.5%	158,4
5	5760,01	7680	10%	302,4
6	7680,01	9600	15%	686,4
7	9600,01	14440	20%	1166,4
8	14440,01	And more	25%	1886,4

4. Exemptions and surcharge

The tax rates currently applicable and the tax-exempt and surcharge thresholds are listed in the table below.

Relationship to deceased or donor[2]	Inheritance exemption	Donation exemption	Surcharge
Spouse, ascendants, father or mother or adoptive parents, matrimonial, non-matrimonial or adopted children and their descendants.	50 UTA	5 UTA	0
Siblings, half-siblings, nieces, nephews, aunts, uncles, grandnieces, grandnephews, cousins and great-uncles (2nd, 3rd and 4th degree of collateral kinship).	5 UTA	5 UTA	20%
Any other more distant relatives or unrelated strangers.	No minimum exemption	No minimum exemption	40%

It should be noted that if an individual receives more than one gift from the same donor, the value of the donations made to that individual need to be recorded any time a new gift is granted to check if the cumulative sum exceeds the amount of threshold.

1 1 UTM = USD$70.

2 1 UTA = USD$840.

5. Filing procedures

In inheritance, the taxable event is the inheritance assignment, whether testate or intestate, and the responsible taxpayer is the beneficiary of each assignment.

Notwithstanding the foregoing, any assignee may pay the tax corresponding to all the assignments, thereby acquiring the right to obtain from the other assignees the refund of what he/she has paid in excess of the tax levied on his/her own assignment.

The tax accrues on the date on which the assignment is paid, which occurs, as a general rule, with the death of the deceased.

The legal term to declare and pay the inheritance tax is two years and is counted from the date of death of the deceased person.

In the case of donations, the tax is applied on the amount of the donation, i.e., the act by which a person (donor) transfers, free of charge and irrevocably, a part of his property to another person (donee), who accepts it.

The responsible taxpayer is the donee, who is obliged to pay the tax levied on the donation he/she receives.

It must be noted that donations must be approved by a Chilean court before the donee files and pays the tax to the Chilean fiscal authority.

6. Assessments and valuations

To determine the amount on which the IH tax must be applied, it should be considered the value of all the assets of the deceased at the date of his death, in accordance with the rules of articles 46, 46 bis and 47 of the IH law, as detailed below:

- Value of agricultural and non-agricultural real estate: it must be recorded according to the real estate tax appraisal (determined by the Chilean tax authority) in force at the semester in which the death of the deceased occurred. Exceptionally, real estate acquired by the deceased, within the three years prior to his death, must be recorded at its acquisition value, if this is higher than the appraisal value.
- Property excluded from the real estate mentioned above: the value must correspond to the current market value.
- Movable goods: the value must correspond to the current market value.
- Household goods: the value must correspond to the current market value.

Exception: when it is not possible to justify the lack of personal property in the inventory, or those inventoried are not proportionate to the mass of property being transferred, or it has not been possible to value such property, the value of such property shall be taken as the amount corresponding to 20% of the value of the real estate in which it was located or to whose service or exploitation it was destined, even if the real estate was not owned by the deceased.

- Public bills of exchange, shares and marketable securities: the average value that these have had during the six months prior to the death of the deceased must be recorded. In the event that they have not been listed on the stock market during said period, the Superintendence of Securities and Insurance or the Superintendence of Banks, as the case may be, will carry out their valuation. If the latter is not possible, they will be estimated at their current market value.
- Deposits, credits and pension funds: the value shown in the supporting document must be recorded. The credits of which the deceased was the holder must be recorded according to the liquidation value at the date of death.
- Vehicles: vehicles will be considered according to the appraisal value determined by the Chilean tax authority.
- Businesses or sole proprietorships or shares in communities owning businesses, companies or rights in partnerships: the value resulting from applying the percentage of the deceased's rights in the businesses, companies, communities or partnerships to the total value of their assets must be recorded.
- Debts: the value owed by the deceased at the date of death should be recorded.

Once the value of the total inventoried assets subject to tax has been determined, the write-offs authorized by the law must be deducted. The liquid inheritance thus established must be divided among the heirs, in accordance with the provisions of the law and/or the will.

The resulting allocation for each heir is converted into monthly tax units (UTM), according to the value of the same at the date of death of the deceased. Once the relevant exemption in case of kinship is reduced to this allowance, the progressive scale contained in the IH law is applied, on the resulting amount, if applicable, the surcharge established in the same law will be applied.

7. Grants

This does not apply to Chile.

8. Life insurance

Life insurance payments are not taxable income in Chile.

9. Civil law on succession

In Chile, it is possible to succeed by will (testate succession) or by law (intestate succession). In testate succession (by will), it is the deceased who decides the distribution of their assets and designates their heirs. In our legal system he/she can do so but with certain limitations: he/she does not have full freedom to assign the estate, because he/she is obliged to comply with the forced allocations.

Forced allocations are those that the testator is obliged to assign and comply:
- The compulsory support that the deceased owed by law must be paid out of the assets of the estate.
- Legitimacy shares, which are made up of 50% of the assets (legitimated half) and are due to the forced heirs, such as the spouse or civil partner, descendants or ascendants (parents and grandparents).
- The quarter of improvements is made up of 25% of the assets and can be used to improve the situation of certain forced heirs (spouse or civil partner, descendants or ascendants).
- The remaining 25%, known as the "fourth of free disposal," can be freely assigned to any person or entity.

If the testator does not respect the rights that the law has reserved for the forced heirs, the latter may bring an action for reformation of the will.

In intestate succession (succession by law or without will), it is not the deceased who disposes of his property. In this case it is the law who determines who the heirs are and regulates the succession. This is why it is also called "legal succession."

Only those individuals who have the status of heirs of the deceased, that is, those who have the closest degree of kinship to the deceased, may succeed the deceased, according to the orders of succession (or forced heirship) established by law:
- First order of succession: the descendants of the deceased person (sons or daughters) and the surviving spouse or civil partner. The descendants may succeed personally or represented.
- Second order of succession: from the spouse or civil partner and the closest ascendants. If the deceased person had no descendants, he/she is succeeded by his/her surviving spouse or civil partner and his/her closest ascendants (e.g. mother, father, grandmother, grandfather):
  - If the deceased person had no ascendants to inherit, the inheritance is received only by his or her surviving spouse or civil partner.
  - If there is no surviving spouse or civil partner, his or her ascendants inherit.

- Third order of succession of brothers and sisters: if the deceased person has no descendants or ascendants, nor surviving spouse or civil partner, his sisters and/or brothers inherit, on the father's and mother's side or only on the mother's side or on the father's side. The brothers and sisters inherit personally or are represented by their descendants (nieces and nephews of the deceased).
- Fourth order of succession of collaterals: if there are no descendants, surviving spouse or civil partner, ascendants, sisters or brothers, the collateral relatives of the closest degree, up to and including the sixth degree (for example, cousins or cousins in the second degree), inherit.
- Fifth order of succession: in the absence of all the persons mentioned above, the Treasury inherits.

10. Estate tax treaties

10.1 Unilateral rules

In the successions of foreigners, the assets located abroad must be included in the inheritance inventory, only when they have been acquired with resources originating in the country.

The tax paid abroad for the assets listed in the inventory will can be used as a credit against the total tax due in Chile.

However, the amount of the tax under IH law may not be less than the amount that would have been due if only the assets located in Chile had been included in the inventory.

Regarding donations, if by application of the rules indicated in point 2 above, a donation made abroad is taxed in Chile, the donee may use as a credit against the donation tax payable in Chile the tax on the donation that was paid abroad. The excess credit against the tax payable in Chile will not be refundable.

10.2 Double-taxation treaties

Chile has not signed any gift or inheritance tax treaties.