

AUSTRALIA AND CHILE SIGN NEW TAX TREATY: WHAT WILL IT MEAN? 14.04.10

Australia and Chile have signed a “comprehensive, new” income tax treaty. The treaty will free up the exchange of taxpayer and bank information between the Australian and Chilean tax authorities and will supposedly aid both governments in reducing tax evasion.

The Australian Government stated that “the new income tax treaty between Australia and Chile will provide certainty and stability of tax treatment for Australian and Chilean cross-border investors and reduce tax-related barriers so the economic relationship between our countries can continue to grow”.

Largely a consequence of Chile’s desire to join the Organization for Economic Cooperation and Development (OECD), the treaty will eliminate double taxation on income and is likely to cause a significant increase in the flow of investments from Australia into Chile.

Provisions of the new tax treaty include:

- Reductions in source-country withholding taxes on certain cross-border payments of dividends, interest and royalties;
- Rules to determine when an enterprise or an individual of one country may be taxed on its activities abroad;
- An agreed basis for determining the allocation of profits within a multinational company to reflect the pricing that would be adopted by independent parties;
- Rules that ensure that profits derived from the operation of ships and aircraft in international traffic are generally taxed only in the country of residence of the operator. Also, income derived by crew members from employment exercised aboard an aircraft operated in international traffic is only taxable in the cabin crews' country of residence;
- Rules for the taxation of income, profits or gains from the alienation of property;
- Provisions that ensure that pension and retirement annuities are taxed only in the country of residence of the recipient;
- A general obligation for both countries to relieve double taxation on cross-border income by permitting tax paid under the other country's laws, and in accordance with the proposed Treaty, to be allowed as a credit against tax payable under their own laws;
- Mechanisms through which the Australian and Chilean administrators may by mutual agreement resolve tax disputes and relieve double taxation;
- Rules to protect nationals and companies of one country from tax discrimination in the other country;

- A framework to provide for the full exchange of taxpayer information; and
- Special rules to preserve the application of existing tax arrangements between Chile and Australian companies under the provisions of the Chilean legislation DL 600 (Foreign Investment Statute). This is of particular importance to Australian mining companies with investments in Chile.

Australian lawmakers are determined to introduce legislation into Parliament as soon as practicable to give the new treaty the force of law. The provisions of the new treaty will take effect in Australia in four different stages after coming into force, which will be 1 January 2011 if it is ratified by Parliament this year. If it is ratified sometime next year it will come into effect on 1 January 2012 and so on.

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