



International Tax

Chile Tax Alert

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New regulation opens opportunities for foreign investors

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Chile's Superintendence of Securities and Insurance issued a regulation (General Ruling N° 410 of 2016) on 27 July 2016 that clarifies the definition of "institutional investor" for purposes of the rules governing regulated investment funds.

Until the new regulation, the concept of institutional investor was not clearly defined in the law, and institutional investor status was granted almost exclusively to Chilean entities. The regulation, which applies as from the date of issuance, will allow qualifying foreign investors, foreign funds and collective investment vehicles to benefit from institutional investor status.

The Chilean tax system grants beneficial tax treatment to regulated investment funds:

- Such funds are not subject to corporate income tax;
- Profit distributions made by regulated investment funds to foreign unit holders are subject to a 10% single tax (instead of up to 35% for other investment vehicles). Gain on the disposal of the fund units also are subject to the reduced 10% rate; and
- Distributions of income from non-Chilean sources by regulated investment funds may be exempt from tax provided the regulated investment fund invests at least 80% of its assets abroad or in derivatives that do not have underlying assets in Chile.

Requirements to qualify as a regulated investment fund include that the fund be administered by a regulated fund administrator and have a minimum of 50 unit holders (although the minimum unit holder requirement is not applicable if an institutional investor participates in the fund).

The new rules expressly extend the definition of institutional investor to include the following foreign investors:

- Foreign entities that are subject to the regulations applicable to banks, insurance and reinsurance companies in their country of origin; and
- Foreign funds or other collective investment vehicles that have at least one of the following features:
 - The fund administrator or entity in charge of the investment decisions is subject, in its country of origin, to the supervision of an authority similar to the Chilean Superintendence of Securities and Insurance; or
 - The fund or investment vehicle itself is subject to the supervision of an authority similar to the Chilean Superintendence of Securities and Insurance.

The new regulation opens investment opportunities to foreign investors, foreign funds or collective investment vehicles that meet the requirements to qualify as an institutional investor and, therefore, to obtain favorable tax treatment through appropriate Chilean vehicles.

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