Agreement between the Government of the Republic of Chile and the Government of the People's Republic of China.

Chile has signed various agreements to avoid double international taxation, among them is the Agreement between the Government of the Republic of Chile and the Government of the People's Republic of China to Eliminate Double Taxation and to Prevent Tax Evasion and Avoidance in Relation to Income Taxes, which has been in force since January 1, 2017, and whose Modifying Protocol was promulgated on April 29 of this year.

With the promulgation and subsequent publication in the Official Gazette of the Republic of Chile, of the protocol amending the agreement between China and Chile. What it comes to do is to strengthen in a very robust way Chile's trade relations with China and vice versa. It should be noted that a number of companies dedicated to different areas, including those dedicated to the exploitation of ships or aircraft in international traffic in Chile, will benefit from taxation, being able to compete on equal terms with their Chinese counterparts

It should be noted that the Agreements to Avoid International Double Taxation are intended

- Eliminate the double international taxation to which taxpayers who carry out transnational activities between the Contracting States are affected.
- Grant stability and legal certainty to said taxpayers, regarding their total tax burden and the interpretation and application of the legislation that affects them.
- Assign the respective taxation rights between the Contracting States.
- Establish mechanisms that help prevent tax evasion and avoidance, through cooperation between the tax administrations of the Contracting States, and proceed to the exchange of information between them.
- Protect nationals of one Contracting State, who invest or carry out activities in the other, from tax discrimination.
- Establish, through a mutual agreement procedure, the possibility of resolving tax disputes that may arise in the application of the provisions of the Agreement.

In this regard, it is important to highlight some of the Fees provided for in the Agreement signed between the Republic of Chile and the People's Republic of China:

- **DIVIDENDS (Article 10 of the Agreement).**

  The general rule is that dividends are taxed in both Contracting States.

  However, taxation is limited in the source state, if the beneficial owner of the dividends is a resident of the other contracting state, in that case, the tax thus demanded may not exceed **10%** of the gross amount of the dividends, the income of shares or other rights.

- **INTERESTS (Article 11 of the Agreement).**

  The general rule is that the interests can be taxed in both Contracting States, however, the State from which they come recognizes limitations, in that case, the imposition of interest paid from one State to the other is limited in the source State at a rate of

a) **4%** of the gross amount of interest derived from loans granted by banks, insurance companies and other financial institutions.
b) **5%** of the gross amount of interest from bonds or securities that are regularly and substantially traded in a recognized stock market. By application of the most favored nation clause, circular 50 of 2018,

c) **10%** of the gross amount of interest in all other cases.

- **ROYALTIES (Article 12 of the Agreement).**

Royalties are the amounts of any kind paid for the use, or the right to use, of copyrights in literary, artistic or scientific works, including motion pictures or films and tapes for radio or television transmission.

The general rule is that Royalties are taxed in both Contracting States, however, the source State recognizes limitations. In that case, the royalties paid from one Contracting State to the other will be limited in the source State at a rate of:

a) 2% of the gross amount of the royalties for the use, or right to use, of industrial, commercial or scientific equipment;
b) 10% of the gross amount of the royalties in all other cases.

- **CAPITAL GAINS (article 13 of the Agreement).**

It should be noted that no maximum tax rate is established in any case for income from capital gains.

The rule is that **capital gains obtained by the sale of shares and other rights of participation in a company can only be taxed in the Contracting State in which the transferor resides, except in the case of profits obtained from the sale of:**

i. Shares or other rights whose value derives at any time within the 3 years prior to the sale, in more than 50% of real estate located in the other Contracting State.

ii. Shares or other rights representing capital shares of a company resident in the other Contracting State. In these cases, the profits may be taxed in the other Contracting State.

However, and without prejudice to what is stated in literal (ii), the profits that a resident of a Contracting State obtains from the transfer of shares of a company resident in the other Contracting State with a stock market presence in a recognized stock exchange located in the other Contracting State may only be taxed in the first-mentioned State if the shares are sold:

a) On a recognized stock exchange in that other Contracting State; or
b) In a public offering process for the acquisition of legal shares
c) Regulated; provided that such shares have been previously acquired either: i. on a recognized stock exchange in that other Contracting State; ii. in a public offering process for the acquisition of shares regulated by law; iii. in a placement of first issue shares, due to the incorporation of the company or a subsequent capital increase of the company; or iv. on the occasion of the exchange of bonds convertible into shares.

In the case of **capital gains from the disposal of assets other than shares or other representative rights of capital,** said gains may only be taxed in the Contracting State in which the transferor resides, with certain exceptions.

- **PROVISION OF SERVICES.**

The services are treated in the agreement in 3 articles:

1. **Company that provides services - Business Benefits (Article 7 of the Agreement).**

   The profits of a company of a Contracting State can only be taxed in that State, unless the company carries out its activity in the other Contracting State through a **permanent establishment** located there.

   In the event that the company carries out its activity through a permanent establishment, the company's benefits may only be taxed in the other State, but only to the extent that they are attributable to the permanent establishment.

2. **Natural Person who provides services - Independent Personal Services (Article 14 of the Agreement).**

   As a general rule, income received by a natural person residing in a Contracting State with respect to professional services or other activities of an independent nature, may only be taxed in the State where he resides. **However, said income may also be subject to tax in the Source State when:**

   a) The natural person **regularly has a fixed base** in the other Contracting State for the performance of his activities; in such case, only the part of the income that is attributable to said fixed base may be taxed in that other State; or
   b) If the natural person **remains in the other Contracting State for a period or periods that total or exceed 183 days in any twelve month period thatbegins or ends in the tax year considered;** in that case, only the part of the income obtained by the development of its activities in that other State can be taxed in that other State.

3. **Employee who provides services - Income from dependent work (Article 15 of the Agreement).**

   The general rule is that remuneration obtained by a resident of a Contracting State due to his employment may only be subject to tax in the State where he resides, unless the employment is exercised in the other Contracting State in which case, the remuneration may be subject to taxation in that other State.

   Against the exception of exclusive taxation in the resident State, even if the services are provided in the other State, if:

   a) The recipient remains in the other State for a period or periods whose duration does not altogether exceed 183 days in any twelve-month period that begins or ends in the tax year considered, and
   b) Remuneration is paid by, or on behalf of, an employer who is a person who is not a resident of the other State, and

c) The remuneration is not supported by a permanent establishment or a fixed base that the employer has in the other State

- **ELIMINATION OF DOUBLE TAXATION**

In Chile, double taxation will be avoided as follows:

a) Residents in Chile who obtain income that, in accordance with the provisions of the Convention, have been taxed in China, may credit against the Chilean taxes corresponding to those incomes the taxes paid in China, in accordance with the applicable provisions of Chilean law. This paragraph shall apply to all income treated in this Agreement.

b) When in accordance with any provision of the Agreement, the income obtained by a resident of Chile is exempt from tax in Chile, Chile may, however, take into account the income exempt for the purposes of calculating the amount of tax on other income of said resident.

- In China, double taxation will be avoided as follows:

a) When a resident of China obtains income from Chile, the amount of tax paid in Chile in accordance with the provisions of this Agreement, may be a credit against the Chinese tax applicable to such resident. **The amount of the credit, however, will not exceed the amount of the Chinese tax** on such incomes calculated in accordance with tax laws and Chinese regulations.

b) When the income obtained from Chile is a dividend paid by a company that is a resident of Chile to a company that is a resident of China and that owns **not less than 20%** of the shares or other rights of the company that pays the dividend, the credit will take into account the First Category Tax paid in Chile by the company paying the dividend with respect to its income.

c) When the income obtained from Chile is a dividend, the Chilean tax paid will refer, for direct credit purposes, to **the amount of the Additional Tax** once the First Category Tax is deducted.

- **EXCHANGE OF INFORMATION.**

The competent authorities of the Contracting States will exchange the information that is foreseeably relevant to apply the provisions of this Agreement or to administer and demand the provisions of the internal legislation of the Contracting States regarding taxes of all kinds and nature applied by the Contracting States or authorities. local, insofar as the taxation provided therein is not contrary to the Convention.