InvestChile

NEW TAX BENEFITS FOR FDI

Law on National Reconstruction and Economic and Social Development in Chile

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New Tax Benefits for FDI

LAW ON NATIONAL RECONSTRUCTION AND
ECONOMIC AND SOCIAL DEVELOPMENT IN CHILE

InvestChile

This publication has been prepared as an informative guide for foreign investors interested in assessing investment opportunities in Chile within the framework of the National Reconstruction and Economic and Social Development Law. The document focuses on the rules governing the structuring, assessment, operation and divestment of foreign investments.

This publication does not constitute legal, tax, financial or investment advice. Each project must be assessed on a case-by-case basis, considering the enacted law, applicable administrative regulations, the investor's tax residency, double taxation treaties and any applicable sector-specific or environmental permits.

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Executive Summary

The National Reconstruction and Economic and Social Development Law, also known as the "Reconstruction Law," establishes an integrated regulatory and tax framework designed to redefine the cycle for structuring, assessing, operating and divesting investments in Chile. Far from being a list of isolated benefits, the new legal framework strikes a balance between greater tax competitiveness and the simplification of sector-specific procedures on the one hand, and high standards of corporate compliance on the other.

The law introduces a strong incentive for investment by gradually reducing the First-Category Tax (IDPC) for the General Tax Regime, which will drop from 27% to 23% beginning in the 2029 business year. This reduction in the tax base is reinforced by the phased reintegration of the tax system, which gradually reduces the tax credit restitution requirement (30% for profits generated in 2027, 20% in 2028 and 0% beginning in 2029, resulting in a total reintegration of 100%).

The divestment or exit strategy benefits substantially from the amendment to Article 107 of the Income Tax Law, which eliminates the 10% flat tax and permanently restores the treatment as "Non-Taxable Income" (INR) for capital gains realized on the sale of publicly traded stocks and securities, effective January 1, 2027.

For operational development and human capital, the law introduces the new Employment Credit for Knowledge Services (Art. 33 ter), which grants a direct credit against the IDPC, equivalent to 15% of the wages of workers involved in the export of digital services (with a 5% increase for companies that have their headquarters or branches in regions other than the Metropolitan Region or in rural municipalities within the latter), and an annual cap of 75 UTM per worker.

Furthermore, Tax Stability for mining, industrial, forestry, energy, infrastructure, telecommunications, research, technological development and medical or scientific projects is established as a statutory contract under public law, with stability periods of 10, 15 or 20 years (depending on the investment amounts, starting at USD 50 million), and a surcharge of 1.5 percentage points on the IDPC rate.

Finally, project feasibility requires rigorous management of the permitting schedule and the environmental review process. The reform strengthens legal certainty by reducing the general deadline for the administrative revocation of sector-specific permits to one year (with the express exclusion of the RCA), introducing the Voluntary Special Environmental Processing Regime (which limits the number of requests for clarification from ICSARAs), including an exemption from the Environmental Impact Assessment System (SEIA) for modifications resulting from technological improvements within the same site perimeter and incorporating a 20-day fast-track process with a presumption of approval in the absence of a response from the National Monuments Council (CMN) regarding minor archaeological findings.

Why This Law Matters for Foreign Investment

01

01 Why This Law Matters for Foreign Investment

The new legal framework established by the Reconstruction Law introduces adjustments that directly affect decision-making factors: the corporate tax rate, the offsetting of tax credits, the taxation of certain capital gains, incentives related to knowledge services and workforce training, tax stability for eligible projects and the permitting process, environmental assessments and project implementation. These issues affect how cash flows, remittances, corporate structure, the investment timeline, regulatory compliance and environmental risks are projected.



Chile as an Investment Hub

02

02 Chile as an Investment Hub

Chile combines trade openness, a network of international agreements, economic institutions, natural resource-intensive sectors, logistics infrastructure and a long history of attracting foreign investment. These factors form the basis for assessing new rules regarding taxation, tax stability and permits.

The Reconstruction Law does not replace the traditional foundations of investment in Chile. It supplements them with provisions that have a positive impact on corporate costs, corporate taxation, the stability of certain projects and the regulatory path for implementation. The investment decision must take these factors into account along with the location, sector, timeline, permits, financing structure and exit strategy.



First-Category Tax: Gradual Reduction of the Corporate Tax Rate

03



03 First-Category Tax: Gradual Reduction of the Corporate Tax Rate

The First-Category Tax (IDPC) is a corporate tax levied on the net taxable income of companies in Chile. For taxpayers under the General Tax Regime, the Reconstruction Law provides for a gradual reduction of the historical rate of 27% until it reaches 23% beginning in the 2029 business year. This same 23% rate will apply permanently to companies eligible for the Pro-SME Regime (Art. 14, Subparagraph D of the Income Tax Law (LIR)), replacing the previous reference rate of 25%.

Business Year (Accrual Period)	General Regime Rate (Article 14 A)
2026	27.0%
2027	25.5%
2028	24.0%
Starting in 2029 (Permanent)	23.0%

Tax System Reform

04



04 Tax System Reform

The gradual reform of the tax system structurally alters the calculation of the final tax burden on profits distributed by corporations incorporated in Chile. Under the previous partially integrated tax system, the First-Category Tax (IDPC) paid on a corporate level served as a credit against the owners' final taxes (Overall Complementary or Additional Tax), but that credit was subject to a mandatory 35% withholding, which raised the maximum effective tax rate on dividends, withdrawals or remittances to 44.45%.

The new legal framework will phase out this restitution in order to move toward full integration (100% credit utilization) beginning in the 2029 business year. The rule is strictly applied based on the year in which the distributable earnings were generated and not based on the date on which the dividend or remittance is paid.

4.1. Transition Schedule and Tax Credit Restitution Rates (General Regime - Article 14 A)

- Profits generated through December 31, 2026: These continue to be subject to the 35% restitution requirement on a permanent basis.
- Profits generated during the 2027 business year: These are subject to a temporary restitution of 30% of the credit.
- Profits generated during the 2028 business year: These are subject to a temporary restitution of 20% of the credit.
- Profits generated starting in the 2029 business year: Not subject to any tax credit restitution requirement, resulting in full credit integration.

Investors from Countries with Double Taxation Treaties

As a fundamental strategic safeguard for attracting large-scale capital, the reform confirms that the benefit provided for in Article 63 of the Income Tax Law will remain in full effect throughout the transition period. Consequently, taxpayers subject to the Additional Tax who reside in countries with double taxation treaties signed by Chile that are in force (and who are the end beneficiaries of the income) will not be subject to the transitional tax credit restitution rates of 30% or 20% and may use 100% of the IDPC as a credit against their remittances from the very first day.

Mandatory Order of Distribution in the SAC Registry

To avoid tax asymmetries or selective allocations of more favorable credits, companies are required to follow a chronological and sequential order when allocating credits in the Accumulated Credit Balance (SAC) register:

1. First Place: Historical credits accumulated as of December 31, 2026, must be fully allocated and utilized (in accordance with the allocation rules and order in effect as of that date).
2. Second Place: Credits generated during the 2027 business year will be allocated (subject to a 30% tax credit restitution rate for investors resident in countries without a double taxation agreement).
3. Third Place: Credits generated during the 2028 business year will be allocated (subject to a 20% tax credit restitution rate for investors resident in countries without a double taxation agreement).

In the event of mergers, spin-offs or corporate reorganizations occurring during the transition, the companies receiving credits have a legal obligation to record and carry forward the specific balances in the SAC in an identifiable manner, preserving the accrual period and the refund rate originally applicable to each cash flow.

The gradual reintegration of the tax system structurally changes the determination of the final tax burden on profits distributed by companies incorporated in Chile.

Capital Gains on Stocks and Publicly Traded Securities

05



05 Capital Gains on Stocks and Publicly Traded Securities

The Reconstruction Law introduces an attractive benefit for the Chilean capital markets by amending Article 107 of the Income Tax Law (LIR). This reform permanently eliminates the 10% flat tax on capital gains (in effect since 2022) and reinstates the historical treatment as Non-Taxable Income (INR) for the capital gain realized upon the sale or redemption of certain publicly traded securities. This amendment, which will formally take effect on January 1, 2027, redefines the framework for the structuring and divestment of large-scale financial portfolios:

A. Eligible Instruments and Eligibility Requirements

This preferential treatment does not constitute a general exemption for any sale of assets, but rather is strictly limited to highly liquid instruments that meet the stringent requirements of Article 107:

- Shares of publicly traded corporations incorporated in Chile that are listed on a stock exchange.
- Shares of mutual funds and exchange-traded funds.
- The benefit is contingent on specific factors such as the acquisition method (for example, traded on the stock exchange or contributed during the incorporation process), the vehicle used for the transaction and effective maintenance of the instrument's listing on the stock exchange at the time of disposal.

B. Burden of Compliance

The return to "Non-Taxable Income" status brings with it administrative simplification for local and foreign investors:

- Repeal of Withholdings: The law completely repeals subsections 6), 7), 8) and 9) of Article 107, thereby eliminating the tax withholding obligations of intermediaries or custodians at the source, as well as the special reporting requirements associated with the collection of the now-abolished 10% tax.
- Loss Neutrality: Consistent with the nature of non-taxable income, paragraph (5) of Article 107 is amended to provide that losses arising from these transactions will be deductible only from income that does not constitute taxable income and will not be deductible as an expense necessary to produce the company's net taxable income.

Labor Incentives and Human Capital

06



06 Labor Incentives and Human Capital

6.1 Employment Credit for Knowledge Services

The Reconstruction Law introduces a highly targeted tax incentive of great strategic value for the technology and global services sectors: a tax credit for wages paid to employees of companies that provide knowledge services in the digital economy. This benefit works as a direct credit against First-Category Tax (IDPC). The incentive is equal to 15% of employees' taxable earnings (and increases to 20% for employees who work primarily in regions other than the Metropolitan Region or in rural municipalities within the Metropolitan Region) and is designed to promote the export of talent and technology from Chile to international markets.

A. Strict Eligibility Requirements for the Service

For an employee's earnings to be included in the credit calculation basis, the services rendered must meet all of the following conditions:

1. Technological or Professional Justification: The service must be based primarily on employees' high technical or professional qualifications, on the intensive use of information technology (IT) or on the service provider's own technological development.
2. Digital and Remote Delivery: By express legal provision, any activity that cannot be provided or delivered remotely through digital, electronic or telecommunications means is excluded.
3. Export Classification: The National Customs Service must formally classify the activity as an export of services.
4. Customer's Residence or Address: The service must be provided to individuals or entities that do not have a domicile or residence in Chile.
5. Geographical Scope of the Operation: Activities must be carried out wholly or partially on Chilean soil, but they must be used exclusively abroad.

B. The Ministerial Catalog and Legal Certainty

To provide investors with maximum predictability and reduce tax discretion, the law introduces an accelerated assimilation mechanism:

- The Official Catalog: The Finance Ministry, by regulation and following a report from the Economy, Development and Tourism Ministry, will establish an official list of services that fall within the knowledge economy.
- Conclusive Presumption: Any service included in this catalog will benefit from a conclusive presumption regarding its status as a "knowledge-based service," which protects the taxpayer from any potential challenges to its eligibility by the Chilean Internal Revenue Service (SII).

- Update and Private Sector Participation: The catalog will be updated annually (unless there are no changes). To ensure that the benefit can adapt to rapid technological changes, a mandatory annual public consultation period of 15 administrative business days is established each year, during which companies and trade associations may formally request the inclusion of a specific activity in the digital economy services catalog.

C. Calculation Formulas and the 5% Regional Surcharge

The credit base is determined using a proportional formula linked to the company's actual exports. The credit for the period is determined on an employee-by-employee basis and then totaled. For each employee, the monthly taxable income is multiplied by the number of months for which pay was actually received during the period. This amount is weighted by the proportion of total revenue represented by revenue from the export of services, and on that basis, a single rate, as detailed below, is applied. Finally, individual credits are added together to determine the credit for the period.

The final credit is determined by applying the following rates to this base:

1. General Base Rate (15%): Applicable to most projects and workers in the country.
2. Increased Regional Rate (20%): A 5-percentage-point surcharge is added to encourage the decentralization of digital talent. This increase to 20% benefits companies that have their headquarters or branches registered in regions other than the Metropolitan Region (RM) or in rural or mixed-use municipalities within the RM (according to the official classification of the Office of Agricultural Studies and Policies of the Ministry of Agriculture). To qualify for this 20% rate, eligible workers must perform their duties primarily in the municipalities mentioned.
3. Limit per Worker: The benefit is subject to a maximum cap per employee equivalent to 75 Monthly Tax Units (UTM) per period (calculated based on the value of the UTM in effect as of December 31 of the respective year).

D. Allocation, Surpluses and Medium-Term Planning

The credit is applied directly against First-Category Tax (IDPC) for the same business year in which wages were paid. Its treatment follows these rules:

- No Right to Refund: If the tax credit for the year exceeds the specified annual IDPC, the remaining balance will not be eligible for a refund from the General Treasury of the Republic.
- Inflation-Indexed Carry-Forward: However, the remaining balance is not lost. It may be offset indefinitely against the IDPC for subsequent periods, adjusted for the change in the Consumer Price Index (CPI) between the last day of the second month preceding the start of the period and the last day of the month preceding the balance sheet date. This makes the credit an extremely valuable tax asset for technology startups or shared service centers that do not yet generate sufficient taxable income to realize the benefit in the short term.

E. Internal Control Standard and Total Loss Penalty

This benefit entails stringent internal control and audit requirements for taxpayers:

- Mandatory Registration: Companies must maintain detailed records of their employees as set forth in the instructions established by the SII in a resolution.
- Global Forfeiture Penalty: If a company claims the regional tax benefit and the SII determines that it failed to implement the necessary safeguards to verify the primary place of work of its employees, or if it uses the benefit negligently or fraudulently while disregarding the actual work location of its staff (for example, by falsely claiming that remote workers in Santiago are working at a regional branch), the company will automatically lose its right to the credit for all of its employees for that period, without prejudice to any fines or penalties applicable under the Tax Code.

F. Incompatibilities and Closing Rules

- General Exclusion Rule: This tax credit is incompatible with any other government exemption, tax credit or rebate calculated based on employee wages.
- Exception for Extreme Areas (Bonus under Law No. 19,853): This credit is exceptionally compatible with only the labor tax credit in remote areas. However, the law sets a cap: the sum of both benefits may not, under any circumstances, exceed 90% of the mandatory social security contributions made by workers who are the basis for the credit.

Tax Stability for Foreign Investment

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Tax stability is one of the most powerful tools for fiscal stability offered by the Chilean legal system

07 Tax Stability for Foreign Investment

Tax stability is one of the most powerful tools for fiscal stability offered by the Chilean legal system to mitigate sovereign risk in large-scale projects. Far from functioning as a general tax exemption, it is a public-law contract entered into between the investor and the State of Chile, represented by the Finance Ministry. This contract guarantees that the tax burden and certain administrative conditions will remain fixed for a specified period.

7.1 Who Is Eligible?

Program eligibility is strictly contingent upon the fulfillment of subjective, quantitative and sector-specific requirements:

- Eligible participants: Foreign investors who meet the definition set forth in Article 3 of Law No. 20,848. The statute also applies, where applicable, to local investors (those domiciled, residing, established or incorporated in Chile).
- Minimum investment amount: The proposed investment project must involve a minimum amount of USD 50 million.
- Eligible sectors:
  1. Mining
  2. Industrial
  3. Forestry
  4. Energy
  5. Infrastructure
  6. Telecommunications
  7. Research
  8. Technological development
  9. Medical or scientific projects
- Formal justification: Tax stability must be set forth in writing in an investment agreement entered into between the investor and the Finance Ministry.

7.2 Institutional Framework

The regime's institutional structure distributes competencies among various public entities, thereby limiting the administration's discretion:

- Foreign Investment Promotion Agency (InvestChile): This agency serves as the technical channel and the sole point of contact for foreign investors. It receives applications, manages the online application platform, reviews eligibility requirements and issues a preliminary technical report before forwarding the file to the Finance Ministry. It also acts as a mediator in the event of contractual disputes.
- Finance Ministry: This is the sole entity authorized to make decisions regarding the approval of the investment agreement and to sign it on behalf of the State of Chile.
- Investment Recipient Company: any company that directly received the foreign investment or in which the project was implemented.
- Financial Market Commission (CMF): The entity responsible for issuing accounting and financial reporting standards for recipient companies.
- Chilean Internal Revenue Service (SII): This entity retains its regular audit powers and issues rulings to implement the separate accounting system.

7.3 General Application Requirements

To qualify for the tax stability regime, the investor must submit a formal application through the digital platform established for this purpose, providing a detailed description of the project that includes information identifying the developer, the investment schedule, the technology to be used and anticipated environmental impacts. In addition, the applicant must provide conclusive evidence of the financial capacity of the business group or the organizers of the initiative and submit commercial and banking documentation that verifies the lawful origin of the funds that will enter the country. Finally, the application must state the estimated impact on direct and indirect job creation during both construction and operation phases, specify a plan for establishing supply chains with national and regional suppliers and include a community engagement plan focused on social outreach and mitigation when the project has significant impacts on specific communities or territories.

7.4 Deadlines for Capital Inflow

The investment agreement must establish a timeline and a deadline by which the investor must secure and deposit all of the committed funds:

Project Sector	Maximum Period for Capital Inflow
Mining Projects	Up to 10 years from the date the contract is signed
Other Eligible Sectors	Up to 5 years from the date the contract is signed

7.5 Duration of Tax Stability

The fiscal stability periods are directly linked to the total amount of foreign investment actually made in the project:

- Investments of USD 50 million or more, but less than USD 100 million: 10 years of tax stability.
- Investments of USD 100 million or more, but less than USD 350 million: 15 years of tax stability.
- Investments of USD 350 million or more: 20 years of tax stability.

Effective Date Rule: For all sections, the tax stability period begins on the project start date. The law objectively defines commencement of operations as the business year in which gross revenue is received or accrued from the project's primary line of business.

Adjustment for Changes in Investment: If, due to unforeseen circumstances, there are substantial changes in the investment amounts, the foreign investor has the right to formally request an adjustment to the contractual tax stability period to align with the higher or lower brackets, depending on the final economic reality of the project.

7.6 Tax Stability Rights

The benchmark for contractually guaranteed tax stability is established based on the tax rate, tax base and other elements of the taxes in effect as of the exact date the contract is signed, covering matters of corporate importance such as:

A. Total Effective Income Tax Burden

This tax stability provides certainty regarding the total effective income tax burden that the investor will face throughout the contract term. For foreign investors, this tax burden includes both First-Category Tax, which is paid by the company, and Additional Tax, which is applied when profits are withdrawn.

B. VAT Stability and Tariffs on Capital Goods

This guarantees the stability of the Value-Added Tax (VAT) regime and the tariff regime applicable exclusively to the importation of machinery, equipment and technologies that constitute capital goods (in accordance with Article 12(B)(10) of the VAT Law) throughout the period scheduled for the physical implementation of the agreed investments. This right also extends to the company receiving the funds.

C. Stability of SII Administrative Criteria

One of the most valuable aspects for audit committees is that the contract includes provisions ensuring that resolutions, circulars and administrative interpretations issued by SII and in effect as of the contract signing date remain unchanged in critical areas such as:

- Depreciation schedules for fixed assets.
- Rules for carrying forward tax losses to subsequent tax years.
- Treatment of organizational and startup expenses.
- Express authorization from SII to maintain accounting records in foreign currency.

D. Free Export

For projects targeting international markets, the Finance Ministry guarantees that the legal and regulatory provisions establishing the right to freely export products will remain unchanged, without quantitative restrictions or administrative quotas.

E. Specific Stability for Mining Projects

Given the high capital intensity of the mining sector, contracts in this field ensure:

1. Fixed Mining Royalty: Stability with respect to the provisions of Law No. 21,591, protecting the project from any rate increase, expansion of the tax base or change in the calculation formula that would increase the specific tax burden.

2. Protection against New Specific Taxes: Tax authorities undertake not to impose any new tax, royalty, fee or special levy that may be created in the future to tax mining activity exclusively.
3. Fixed Mining License Fees: Stability regarding the amount and method of calculation of exploration and extraction license fees under the Mining Code, preventing burdensome unilateral increases.

7.7 Cost of Participation in the Regime

Tax stability status is not a free benefit. It entails a surcharge on ordinary taxes in exchange for government-issued legal certainty:

- Rate Surcharge: With respect to income attributable to investments covered by the tax stability contract, the corporate First Category Income Tax (IDPC) rate will increase by 1.5 percentage points.
- Handling the Increase: For the purposes of allocating credits to end owners upon withdrawal, remittance or distribution, the increased IDPC rate will be considered the company rate in effect at the end of the corresponding business year.

7.8 Transparency and Accounting Obligations

To maintain tax stability rights, the company receiving the investment must comply with a strict standard of transparency and financial reporting, designed to prevent the use of the regime in aggressive tax planning or tax evasion structures:

- Mandatory External Audit: The recipient company's annual financial statements must be reviewed by a qualified external auditing firm.
- CMF Reporting: Individual and consolidated financial statements—both quarterly and annual—must be filed with the Financial Market Commission (CMF), along with the annual report detailing the ownership structure.
- Separate Accounting: Strictly for tax purposes, the company must maintain separate accounting records, treating the investment covered by the contract as if it were an independent and separate economic entity.
- Reporting on Reorganizations: The investor, its controlling parties and the recipient company must promptly notify the Finance Ministry and SII of any corporate reorganization in which they participate, in accordance with applicable rules and procedures.

Forfeiture Penalty: Compliance with reporting and disclosure requirements to the CMF is subject to strict deadlines. If the recipient company fails to submit financial information by the deadline prescribed by the Commission, tax stability rights will be forfeited, subject to a substantiated resolution from the Finance Ministry. This forfeiture affects both the recipient company and all foreign investors with an interest in it.

7.9 Related Party Debt and Investment Amount

In calculating the realized investment and its corresponding tax stability period, both equity contributions and debt effectively injected into the project are taken into account. However, the law sets a strict limit on borrowing from related parties to prevent the erosion of the local tax base:

- Thin Capitalization Threshold: The total amount of the related debt (as defined in terms of economic control and ties under Article 41 F of the Income Tax Law) may not exceed three times (a 3:1 ratio) the recipient company's taxable equity.
- Penalty for Breach of Contract: If, at the end of any business year, the debt-to-equity ratio exceeds the 3:1 threshold, the contractual tax stability will be permanently forfeited in its entirety.

7.10 Non-Discrimination

The statute establishes the constitutional principle of equality before the law, guaranteeing that foreign investment will not be subject to arbitrary discrimination with respect to domestic capital investment.

7.11 Waiver, Loss and Dispute Resolution

The investment contract framework governs the conditions for termination of benefits and expedited legal dispute resolution mechanisms:

A. Voluntary Waiver

An investor has the right to permanently waive the tax stability provision on a one-time basis in order to be subject to the general regime under the Income Tax Law.

- Multi-Investor Contracts: In contracts covering more than one investor, the waiver of one of these automatically terminates the tax stability regime for all other investors and for the recipient company.
- To prevent damages to minority shareholders, investors may expressly agree to a minimum ownership threshold (calculated based on the investment effectively made as of the waiver date) in the investment contract, so that the waiver has a general, nullifying effect.

B. Loss Due to Material Breach

Tax stability rights will be lost in whole or in part if the investor is convicted by a final and enforceable judgment for a tax offense, or if the investor is penalized under general anti-evasion rules.

C. Dispute Resolution: Mediation and Arbitration

Any disputes that arise between the investor and the State regarding the interpretation, validity, performance or termination of the contract-law must be resolved through a rapid and technical process:

1. Mandatory Mediation: The dispute will first be submitted to a mediation process with InvestChile, and the government agency or body that gave rise to the dispute must appear before it.
2. Contractual Arbitration: If mediation is declared a failure, the foreign investor has the right to submit the dispute to an arbitration court in accordance with the terms agreed upon in the contract.
3. Limit on Arbitration Jurisdiction: Arbitration applies exclusively to contractual matters. Under no circumstances does it extend to SII's public powers of audit, interpretation, assessment or collection of taxes, which fall exclusively within the jurisdiction of the ordinary tax and customs courts.

Suspension of Audit Deadlines: To provide investors with full safeguards during contractual litigation, the law provides that, once arbitration proceedings have begun, all statutes of limitations and SII audit periods (set forth in Articles 200 and 201 of the Tax Code) directly related to the subject matter of the arbitration are automatically suspended. This suspension remains in effect automatically until the final arbitral award is issued and formally notified.

Permits, Environmental Assessment and Project Implementation

08



08 Permits, Environmental Assessment and Project Implementation

8.1 Administrative Invalidation of Administrative Acts

Article 4 of the Reconstruction Law introduces one of the most eagerly awaited reforms for legal certainty in Chile: it amends Article 53 of Law No. 19,880—which establishes the Framework for Administrative Procedures—to cut the general time limit for administrative invalidation in half, reducing it from two years to one year.

This regulation has an immediate impact on regulatory risk mitigation and the permitting process for any investment project:

- Accelerated Consolidation of Sector-Specific Permits: Previously, any permit essential to a project (such as water use rights, maritime concessions, municipal building permits or health authorizations) could be invalidated ex officio by the Administration itself or at the request of third parties, on legal grounds, for a period of 24 months. By reducing the time limit to one year from the date the decision is issued, the period of uncertainty regarding licenses and permits is drastically shortened.
- Impact on Project Finance: For credit committees and financing agencies, a two-year forfeiture period slowed down financial closures or required the retention of additional collateral. Consolidating permits within a 12-month timeframe facilitates the flow of projects and speeds up decision-making regarding the construction of large-scale infrastructure.
- The Critical Exception: RCA Exclusion: It is of the utmost importance that investors understand that this temporary reduction scheme does not apply to the Environmental Qualification Resolution (RCA). The law expressly provides that the RCA is completely excluded from the general invalidation mechanism set forth in Article 53 of Law No. 19,880. Disputes and claims related to a project's environmental approval must be processed exclusively through the special appeals procedure provided for in Article 20 of Law No. 19,300.

8.2 Environmental Assessment and SEIA

The Reconstruction Law amends the Environmental Impact Assessment System in specific areas. The changes cover power plants, modifications to projects that have received a favorable Environmental Qualification Resolution, the operation of the assessment procedure, appeals, a special voluntary processing regime, technical oversight by the Environmental Assessment Service and rules for challenging the Environmental Qualification Resolution.

Project Modifications with a Favorable RCA

The Reconstruction Law amends Article 10 of Law No. 19,300 to establish a principle of predictability and operational continuity that project developers have long awaited:

- Rule for the Same Previously Assessed Area: Modifications to a project or activity that already has a favorable Environmental Qualification Resolution (RCA) and whose components, works or actions—whether integral to or complementary to the project—are carried out within the same geographic area that has already been assessed, will only be required to undergo a new environmental assessment if there is a substantive change in terms of the magnitude or extent of their environmental impacts.
- Exemption for Technological Improvements: Similarly, modifications intended solely to implement a technological improvement are automatically exempt from undergoing a new environmental assessment.
- Deadline for Issuing Regulations: Pursuant to Transitional Article 13, the Environment Ministry has a maximum of one year to issue regulations establishing specific circumstances and technical criteria applicable to this system of improvements and modifications.

Substantiated Resolutions made during Assessment

The reform introduces specific amendments to Articles 18-quater and 19 of Law No. 19,300, requiring the environmental authority to issue a substantiated resolution at critical stages of the assessment process:

- Early EIA Determination: When the Environmental Assessment Service (SEA) determines during the initial stages that a submitted project must undergo an Environmental Impact Assessment (EIA) rather than a Declaration, this decision must necessarily be substantiated.
- DIA Review and Early Termination: Similarly, if, during the review of an Environmental Impact Declaration (DIA), the Service determines that the project requires an EIA or that compliance with

applicable environmental regulations has not been demonstrated, the competent authority must set forth this decision in a substantiated resolution.

- Strategic Value in Defense of the Project: This requirement significantly mitigates the potential risks of administrative discretion and the perception of arbitrariness in rejections. By requiring the regulator to clearly explain the technical and legal grounds for its decision, the investor has the information necessary to build a solid defense through the new special appeal process or, if necessary, through legal proceedings with the Environmental Court.

Special Appeal in Environmental Matters

The Reconstruction Law introduces a unified framework for special appeals regarding environmental claims, designed to expedite the resolution of disputes and shorten the duration of administrative proceedings, although its final scope was limited by the Constitutional Court:

- Clear Appeal Procedures: Appeals against decisions on Environmental Impact Declarations (DIA) are resolved directly by the Executive Director of the Environmental Assessment Service (SEA). For Environmental Impact Assessments (EIA), authority lies with a committee composed of the Environment Minister and the sectoral ministers of Health, Economy, Agriculture, Energy and Mining.
- Legitimacy, Time Frames and Impact of the Constitutional Court: The appeal may be filed by the project owner, observers of the public participation process (PAC), and legally interested third parties within 30 days of notification or electronic publication. The law requires the SEA to publish the resolution on its electronic platform within a maximum of 5 business days from the date it is issued, at which point it is presumed, by law, to be immediately known to any person.
- Concentrated Resolution and Deadlines: To ensure efficiency, if more than one appeal is filed against the same project, the authority must resolve all of them collectively in a single decision. A substantiated resolution must be issued within strict, non-extendable deadlines: 30 days for DIA and 60 days for EIA, counted from the day following the filing of the last special appeal.
- Implied Administrative Denial: If the authority does not issue a decision within the statutory time limit, the claimant may demand a ruling within the following 5 days. If inaction continues, any

interested party may automatically request an electronic certificate. Once such a certificate has been issued, the appeal is deemed to have been rejected by the administration's failure to respond, and the authority loses all jurisdiction to rule on it. This eliminates the uncertainty of an indefinite administrative hold and allows the investor to immediately pursue legal action.

- Exclusive Judicial Channel: As a key measure to ensure legal certainty for investors, the law establishes that no ordinary administrative petition for annulment (under Article 53 of Law No. 19,880) or general administrative appeals on the same grounds (under Article 59 of the same law) may be filed against the Environmental Qualification Resolution (RCA). Any remaining disputes must be resolved exclusively through legal proceedings before the competent Environmental Court within 20 days of notification of the rejection of the appeal.

Voluntary Special Environmental Review Process

The Reconstruction Law establishes a special voluntary environmental assessment program that project owners may opt into when submitting their projects to the Environmental Impact Assessment System (SEIA):

- Drastic Reduction in Clarification Instances (ICSARAs): Under this system, processing becomes highly expedited. In Environmental Impact Declarations (DIA), the project proponent is allowed only one opportunity to respond to clarifications, corrections or additional requests from public agencies. In Environmental Impact Assessments (EIA), the number of rounds is limited to a maximum of two, with the second round being exceptional and duly substantiated. Once the final response has been submitted (or the deadline has passed), the SEA will immediately begin preparing the Consolidated Assessment Report (ICE).
- Sector-Specific Discretionary Filter: Under a rule designed to prevent unforeseen or non-compliant requirements, decisions issued by state administrative agencies with environmental jurisdiction must strictly adhere to the content of the project and the supporting documentation submitted to the appropriate authorities. They may not include new requirements or refer to matters unrelated to those phases, and they must also strictly adhere to the guidelines issued by the SEA. This limitation is supplemented by the SEA's new technical oversight authority (Art. 81(a)), which

expressly authorizes the Service to screen and reject sectoral rulings that are irrelevant, exceed the issuing agency's authority or are submitted after the deadline.

8.3 Environmental Courts, Preliminary Injunctions and Appeals

The Reconstruction Law specifies the jurisdiction of the Environmental Courts to hear legal claims against decisions by the Committee of Ministers or the Executive Director of the SEA that resolve appeals related to public participation. The court with territorial jurisdiction will be the one in the location where the project was assessed by the respective Assessment Committee (or by the Executive Director, as applicable), which will ensure full predictability regarding the jurisdiction once the administrative process has been exhausted.

Furthermore, the reform separates challenges to the Environmental Qualification Resolution (RCA) from the ordinary procedure for invalidating administrative acts of an environmental nature. While claims challenging administrative invalidations of other sector-specific environmental acts follow the general procedure before the Environmental Courts, the RCA is expressly excluded from this system. Any challenge to it must be filed solely and exclusively through the special administrative appeal provided in Article 20 of Law No. 19,300 and the subsequent environmental proceeding. The purpose of this strict separation of legal avenues is to establish clear statutes of limitations, simplify standing to sue and reduce the overlap of parallel lawsuits against the same project. However, the developer should bear in mind that the number of these legal claims could increase as a result of the Constitutional Court's ruling, which expanded the standing to sue of third parties who did not participate in the public consultation (PAC).

Regarding injunctions—one of the greatest sources of financial risk in construction projects—the law introduces strict limits to reduce temporary uncertainty:

- Duration and Extensions: Preliminary injunctions ordering the total or partial suspension of the effects of an RCA will be valid for a maximum of 30 calendar days. They may be renewed by means of a substantiated resolution for equal periods, but

the total duration of all extensions may not, under any circumstances, exceed the absolute limit of six months from the date of issuance. The only legal exception for issuing a new preliminary injunction is if there is evidence of a serious and irreversible environmental or health risk or a clear breach of the RCA's own obligations.

- Appeals Process and "Devolutive Effect": Decisions granting, denying or extending these interim measures may be appealed to the appropriate Court of Appeals within ten days. It is important to note that the appeal will be granted solely with a "devolutive effect." This means that if the Environmental Court orders the suspension of the effects of the RCA (halting the project), that suspension will remain fully in effect and binding on the project owner for the entire duration of the appeal proceedings and ruling by the Court of Appeals.

Finally, the procedural rules establish a restricted appeal process to prevent artificial delays in the trial. In these proceedings, only the following decisions may be appealed: those declaring the complaint inadmissible; those granting or denying preliminary injunctions or their extensions; those admitting the case for trial; and those that terminate the proceedings or make their continuation impossible.

8.4 Biodiversity, Priority Sites and Protected Areas

The Reconstruction Law introduces key amendments to the transitional provisions of Law No. 21,600 (which establishes the Biodiversity and Protected Areas Service—SBAP), requiring project developers to integrate biodiversity protection into the initial phases of design and siting of their routes, ancillary facilities and areas of influence:

- Certainty Regarding Implementation Timelines: To expedite the implementation of the SBAP Law and provide regulatory predictability, the reform establishes mandatory deadlines for the regulator. On the one hand, it establishes that the Environment Ministry will have a maximum, non-extendable period of five years (counted from the publication of Law No. 21,600) to issue the supreme decree that will determine which of the current priority sites will officially be subject to the provisions and restrictions of that law. In addition, a maximum period of four years is established for issuing all pending regulations necessary for full implementation of Law No. 21,600.

- Territorial Flexibility in Protected Areas: As a measure intended to ensure the viability of existing projects or operations, the law amends Transitory Article 10 of Law No. 21,600 to allow the relocation of concessions located in a National Park to a National Reserve or a Multiple-Use Conservation Area (or within these latter two categories), even if the target area does not have a current management plan. All requests for the relocation of concessions must be submitted through the Environmental Impact Assessment System (SEIA) and must be accompanied by a closure and post-closure plan.

8.5 National Monuments and Cultural Heritage

The Reconstruction Law introduces a structural reform to Law No. 17,288 on National Monuments, modifying the management of archaeological and paleontological risks during the implementation of construction projects. This reform represents a critical step forward in ensuring the predictability of construction schedules by incorporating strict deadlines for government decisions and a fast-track process for minor interventions, while also raising compliance standards and increasing financial and criminal penalties.

A. Increased Availability of Expert Technical Advice regarding Findings with Cultural Heritage

For any application for authorization to conduct historical, archaeological, anthropological or paleontological excavations or surveys, the project owner must obtain technical advice from a professional in the relevant field (archaeologist or paleontologist).

- Foreign Qualifications: If the specialist holds a professional degree obtained outside of Chile, this must be duly recognized or accredited in the country for the application to be admissible before the authority.

B. New Protocol for Archaeological or Paleontological Findings

In the event of an accidental discovery of ruins, sites, artifacts or historical, anthropological, archaeological or paleontological objects during the course of construction work, the law establishes a strict, step-by-step procedure:

1. Immediate Notice Requirement: The project owner must immediately notify the Technical Secretariat of the National Monuments Council (CMN).
2. Protective Measures and Localized Shutdown: The developer must immediately take the necessary

measures to ensure the proper safekeeping of the artifacts found. If it is necessary to prevent the deterioration or destruction of the finding, construction work must be suspended only in the specific area where the finding was discovered, while expressly allowing work to continue in all other project areas. This eliminates the practice of total and indefinite work stoppages that affected the financial viability of linear, real estate or mining projects.

C. Administrative Deadlines and "Expiration Certificate"

The reform limits the CMN's discretion regarding the timeframe by imposing strict deadlines for resolving the issue in the affected area:

- On-Site Inspection (5 business days): Once notification of the finding has been received, the CMN Technical Secretariat has a maximum non-extendable period of 5 business days to send personnel to the site and verify the nature of the finding.
- Council Ruling (20 calendar days): The Council has 20 calendar days, starting from the date of notification of the finding, to make a final determination as to whether the work requires a formal authorization request. If the Council determines that no authorization is required, the interested party may immediately resume activities in the area.
- Positive Administrative Silence and Loss of Jurisdiction: If a period of twenty calendar days elapses without a ruling from the Council, the interested party has the right to request a certificate confirming that the deadline has expired, which must be issued immediately and in electronic format by the Technical Secretariat. Once this certificate has been issued, the Council is legally prohibited from ruling on the finding, which allows the holder to legally continue construction.
- *Critical Exception:* This certificate of expiration will in no circumstances apply to findings involving human or skeletal remains, which will always require express authorization from the Council.

D. Penalties for Failure to Give Notice

Failure to give immediate notice or to implement measures to safeguard the finding will be punishable by fines ranging from 5 to 200 Monthly Tax Units (UTM). In addition, the law establishes a rule of joint and several civil liability between employers and contractors in charge of the construction projects for all damages resulting from failure to give notice.

E. Regime for "Minor Interventions" not Requiring Prior Authorization

To expedite implementation, the law establishes a category exempt from prior authorization for actions that do not have a significant impact on archaeological, anthropological or paleontological heritage:

- Electronic Platform: These minor procedures will be processed through a separate procedure via a digital platform. Once the applicant submits the notice, the platform will automatically generate a submission certificate.
- Immediate Authorization Effect: This digital certificate has the same legal effect as a formal authorization as of the date it is submitted, which allows construction to begin without the need for subsequent approval by the CMN.
- Exclusions: Minor interventions may never be performed on findings involving human or skeletal remains. For these findings, construction must immediately stop and the Council must be notified in order to obtain its express authorization.
- Penalty for False Declaration: Any owner who knowingly makes a false declaration classifying an intervention as "minor" to evade routine oversight will be subject to administrative fines ranging from 10 to 500 UTM. Furthermore, if such false declarations result in damage or destruction of archaeological or paleontological artifacts, the penalty will involve serving a minor prison term at the minimum to medium level.
- Deadline for Issuing Regulations: The Culture, Arts and Heritage Ministry has six months from the law's effective date to issue the regulations for Article 26-bis, which will establish the technical criteria for minor interventions.

8.6 Energy and Power Plants

The Reconstruction Law introduces significant reforms regarding the structuring and development of energy projects in Chile. The amendments are directly aimed at making operations more dynamic and flexible and updating existing projects, while redefining the criteria for inclusion in the Environmental Impact Assessment System (SEIA) for new power plants.

A. New Regime for Submitting Power Plants to the SEIA

The reform amends Article 10(c) of Law No. 19,300 on General Environmental Principles to establish a general category of **"power generation plants."** However, the legislature delegates to regulations the technical determination of the thresholds that require such projects to undergo the SEIA.

The law creates a category exempt from prior authorization for activities that do not generate a significant impact on archaeological, anthropological, or paleontological heritage.

- **Minimum Safety Threshold:** To provide certainty for developers and promote distributed generation, the law establishes a non-negotiable threshold for the regulator: under no circumstances may the new regulations set a capacity threshold below **3 MW.**
- **Differentiation by Technology:** Future regulations must outline submission requirements, making a mandatory distinction between the different types of generation technology.
- **Transitional Validity and Continuity Rule:** In accordance with the thirteenth transitional article, the Environment Ministry has a **maximum period of one year** (calculated from the publication date of the law) to issue the SEIA regulations in accordance with this reform. It is critical for structurers to note that this legal amendment **will not take effect until the new regulation is published in the Official Gazette**. In the meantime, projects will continue to be governed by the submission requirements of current regulations.

B. Modifications within the Same Previously Assessed Area and Exemption for "Technological Improvements"

One of the law's greatest benefits for operational continuity and investment efficiency in the energy sector is how it addresses changes to projects that have already received a favorable Environmental Qualification Resolution (RCA):

- Limit on Environmental Reassessment: Modifications to a project or activity whose components, works or actions are carried out within the same area that has already undergone an environmental assessment will require a new assessment only if there is a substantial change in the magnitude or extent of their environmental impacts.
- Full Exemption for Technological Improvements: In a regulation long awaited by the renewable energy sector (especially for repowering or upgrading wind turbines and solar panels), the law stipulates that modifications involving only technological improvements will not be subject to a new environmental assessment.
- Regulatory Compliance: The specific criteria and circumstances for classifying an optimization as an exempt "technological improvement" will be set forth in the regulations under Article 13 of Law No. 19,300, which must be issued within one year.

C. Strategic Impact on the Project's Financial Structure

For an energy developer or investor, this new regulatory framework significantly alters risk analysis and business structuring:

1. **Optimizing Connection Times:** The exemption from having to submit technological improvements to a new environmental assessment mitigates potential bureaucratic delays and speeds up decision-making regarding the technical upgrading of operating assets.
2. **Modeling of Power Purchase Agreements (PPAs):** By having a precise understanding of the entry thresholds (minimum 3 MW) and the regulatory validity periods, developers can better plan construction dates, project commissioning and the delivery dates specified in physical power purchase agreements, thereby reducing their exposure to penalties for delays.
3. **Guarantees and Project Financing:** The ability to predict whether a technological change or optimization within the sector will require SEIA approval reduces uncertainty for lenders, facilitating the granting of loans and the structuring of complex financial guarantees in capital markets.

8.7 Aquaculture

The Reconstruction Law introduces a structural reform to the General Law on Fisheries and Aquaculture (LGPA), redefining the financial consequences of operational inactivity, simplifying technical oversight and opening new opportunities for land-use planning.

A. Elimination of Forfeiture and Transition to the "Non-Use License Fee"

The most significant change for the valuation of aquaculture assets is the permanent elimination of the grounds for forfeiture due to the suspension of activities for more than two consecutive years. Inactivity under a concession no longer risks the loss of the property title; instead, the disincentive to speculation is channeled through purely economic means by applying progressively higher fees.

As a critical transitional benefit for portfolios of assets involved in litigation, the law provides that owners facing pending (non-final) revocation proceedings due to lack of operation may choose to retroactively opt to pay the increased license fee, which terminates the revocation proceedings and restores the asset's validity.

B. Inactivity Surcharges

When a fish farming site does not report actual use, the base license fee per hectare will be subject to a highly stringent progressive surcharge schedule:

- Years 1 and 2 of inactivity: No surcharge (the standard base license fee applies).
- Years 3 to 5 of non-use: The base license fee is increased by 60% per hectare.
- Years 6 to 10 of non-use: The cumulative value of the previous bracket (base + 60%) is multiplied by 3 (x3).
- Starting in year 11: the value for the 3- to 5-year range is multiplied by 6 (x6). This multiplier will double at the start of each five-year period of continuous inactivity.

C. Definition of "Effective Use" and Safeguard Exemptions

To provide certainty to operators, the law sets strict limits on what the authority may require to recognize the operation of a site:

- Minimum Operating Level: "Use" is understood to refer to the site's activity that meets the minimum levels per species and area established by regulations. However, under no circumstances may the regulations require a minimum annual operation exceeding 50% of the maximum capacity authorized in the respective Environmental Qualification Resolution (RCA).
- Exemptions from Escalating Fees: An inactive concessionaire will be fully exempt from the non-use surcharge (paying only the standard base license fee) if it can demonstrate that it is in any of the following situations:

1. In a sector affected by force majeure, a natural disaster or an environmental event.
2. In an area where authorities have declared a public health emergency.
3. There is a mandatory order to suspend operations issued by the competent authority.

D. Relocations and Flexibility in Protected Areas

The physical restructuring of concessions is subject to a strict but predictable framework:

- Mandatory Environmental Assessment: Applications for the relocation of concessions must be submitted to the Environmental Impact Assessment System (SEIA) only if they have environmental impacts as defined by Law 19,300 and its regulations; and, in such cases, they must be accompanied by a closure and post-closure plan submitted to the Fisheries and Aquaculture Undersecretariat (SUBPESCA).
- Congressional Oversight: To ensure transparency, SUBPESCA must report annually to the parliamentary committees on Fisheries and the Environment regarding all relocation requests that were approved and rejected during the previous business year.
- Flexible Restrictions in SBAP Areas: An amendment to Law No. 21,600 expressly permits the relocation of concessions from a National Park to a National Reserve or a Multiple-Use Conservation Area (or within these latter two categories), even if these target areas do not have a current management plan. In the past, this hindered land-use planning processes, which had long been delayed by regulatory delays on the part of the government.

E. New Oversight Model and Technical Reports

The law completely overhauls the production of environmental and technical information, eliminating information asymmetries and streamlining response times:

- External Preparation at Project Owner's Expense: At the project owner's expense, the National Fisheries and Aquaculture Service (SERNAPESCA) will prepare both the environmental operating information (Art. 87 of the LGPA) and the inspection of natural fish stocks (Art. 67 of the LGPA). To this end, it will entrust these tasks to external professionals or organizations listed in a public registry, which will enable a more expeditious preparation of these reports.
- Expedited Electronic Bidding: These third parties will be contracted through expedited electronic bidding processes at regulated rates.
- Public Transparency Platform: The Service will maintain a publicly accessible digital platform that will publish both results and criteria for the assignment and selection of external examiners.
- Regulatory Simplification: Article 87-ter of the LGPA is repealed, simplifying environmental reporting requirements. This measure will take effect one year after the law is published. Furthermore, the Undersecretariat is authorized to validate technical information provided directly by authorized third parties to expedite the identification of areas suitable for aquaculture.

Conclusion

09



09 Conclusion

The Reconstruction Law introduces significant changes regarding the assessment, structuring and implementation of foreign investments in Chile. The reduction of the First Category Tax, the restructuring of the tax system, the treatment of certain regulated capital gains under Article 107 of the Income Tax Law, incentives related to knowledge services and workforce training, tax stability and adjustments to permits and environmental assessments should be analyzed as part of a single investment framework.

The tax framework provides specific tools for more precise planning. A lower corporate tax rate improves the projection of after-tax cash flows. Tax system reintegration and the treatment of certain transactions involving shares and other publicly traded securities may also affect the structuring of inflows and outflows. In addition, there are specific human capital instruments, such as tax credits for companies that export knowledge-based services in the digital economy.

Tax stability will provide a sense of stability to projects that meet the legal requirements regarding amount, sector, contract, information and compliance. Its value lies in stabilizing certain tax conditions for a defined period, not in replacing sector-specific or environmental permits or authorizations. Therefore, the decision to participate in the program must be assessed in conjunction with the capital inflow schedule, the external audit, separate accounting, rules on related debt, transparency obligations and the grounds for waiving or forfeiting the benefit.

Nor is the viability of an investment determined solely by the financial model. From the outset, a project must take into account the regulatory process: administrative invalidation of acts, submission to the Environmental Impact Assessment System, project modifications through an Environmental Qualification Resolution, claims, injunctions, biodiversity, cultural heritage and sector-specific rules, such as those applicable to energy and aquaculture.

Chile provides an open platform for foreign investment, with experience in attracting international capital, large-scale productive sectors and a framework that enables long-term investment planning with greater transparency regarding tax and regulatory information. The Reconstruction Law should not be viewed as a list of isolated benefits, but rather as a set of rules that make it possible to assess projects from an integrated perspective that takes into account tax competitiveness, fiscal stability, human capital, permits and implementation. For investors looking to develop sustainable, long-term operations, Chile presents an opportunity that requires rigorous analysis, but also offers concrete tools to better structure such investments.

The Tax Stability Regime provides greater certainty for projects.

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