

APRIL 2020

## ZERO STAMP TAX

Among the measures recently adopted by the Chilean Government for facing the current COVID-19 crisis, Law No. 21,225 was published on April 2, 2020. In an effort aimed to foster the financing for companies and people, this law includes the reduction of the Stamp tax rate to zero, which otherwise would have been applied upon loan transactions. A similar measure was adopted back during the 2009 Sub-prime crisis when the Stamp tax rate was also reduced to zero between January and December of 2009.

Pursuant to Law No. 21,225 (2020), the zero Stamp tax rate applies from April 1 to September 30, 2020. Notwithstanding this law was published on April 2, 2020, it will apply with retroactive effect since April 1, 2020. Thus, no Stamp tax will apply to loan transactions carried on at April 1, 2020 (nor interest or fines). If any Stamp tax would have been paid upon a loan transaction carried-out on April 1, 2020, taxpayers are entitled to request the reimbursement of such tax.

Chilean tax authorities' rulings published in 2009 (eg, Circular No. 8 (2009)), in connection with the 2009 law that also reduced the Stamp tax to zero, indicated that ancillary and formal Stamp tax obligations would apply notwithstanding the zero Stamp tax rate (eg, the Stamp tax registry held by the Notaries). This was because the 2009 law did not revoke the Stamp tax but just applied a temporary rate reduction. We believe that a similar interpretation may apply now relating Law No. 21,225 (2020).

Law No. 21,225 (2020) has also established that bond facilities or short-term debt titles, which first placement occurs during the April 1-September 30, 2020 period, will be subject to the Stamp tax applicable to the placement of the bond facilities until the 0.8% Stamp tax is fulfilled. Notwithstanding, the placements of bond facilities issued during the April 1-September 30, 2020 period will benefit from the zero Stamp tax rate.

Regarding the Stamp tax applied on import documents, the zero Stamp tax rate will apply even though the accrual of the Stamp tax occurs after the April 1-September 30, 2020 period, but to the extent that the approval of the respective Custom Duties destination document or the entrance of the merchandises into a Free Trade zone occurs until September 30, 2020.

Last but not least, in the event of the refinancing of loans, which are exempt from Stamp tax, Law No. 21,225 (2020) deems as if these loans would have been subject to the maximum 0.8% Stamp tax rate (ie, the Stamp tax rate enforced before the current zero Stamp tax rate period). This assumption has been set forth since the Stamp tax refinancing exemption requires that the loan being refinanced has paid the applicable Stamp tax.



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