BARROS & ERRÁZURIZ

March 27th, 2020

COVID – 19 IN CHILE:
BARROS & ERRÁZURIZ REPORT

I. EXCEPTIONAL CONSTITUTIONAL STATE OF NATIONAL CATASTROPHE

On Wednesday 18th, 2020, President Sebastián Piñera issued new announcements regarding general measures that the Government adopted in order to prevent the advance of coronavirus in Chile. The announcements includes the declaration of an **Exceptional Constitutional State of National Catastrophe,** which began **on Thursday 19th, 2020, for a period of 90 days**.

1. What is the State of National Catastrophe?

Chilean Political Constitution allows the Government to affect – under one of the following exceptional constitutional situations – the rights and personal guarantees of the people: external war, internal war, internal commotion, and public emergencies and calamities, when they affect the normal development and/or functioning of the State's institutions. Within these hypotheses one of the exceptional constitutional states that can be declared by the President of the Republic is a "State of National Catastrophe".

2. What does the "State of National Catastrophe" imply?

During the "State of National Catastrophe", the National Defense Chief designates will have the following duties and attributions:

1) Assume the leadership of the Armed Forces of Order and Public Security in the declared zone with "State of National Catastrophe" in order to safeguard the effects of public order and repair or prevent damage and/or danger for national security originated by this status, following the administrative powers of the institutional authorities under the jurisdiction;

2) **Control the entry and exit of all** people regarding the affect zone as well as transportation and **transit within it**:

3) Issue all measures destined to protect artwork and public use services, mining center, industrial services, among others;

4) Order the stockpiling, collection or reserve formation of food, merchandise and general articles required for the attention and survival of the population of the declared area and control the entry and exit of these assets in to and from the area;

5) Determine the distribution and use – free or with charge – of the referred assets in order to maintain the population in the affected area;

6) Establish conditions for public gatherings;

7) Issue direct instructions for all State public employees, its companies and/or local municipalities that are in the area, with the exclusive purpose of solving the effects of the public calamity;

8) Broadcast through social and public communications media all necessary information to provide calm to the population;

9) Issue all required instructions and directions for the general order of the area.

3. Measures taken

To this day, several measures has been issued regarding quarantine or the limitation of public transportation:

Border Closure:

- Closure of borders since March 18th.
- Chileans and foreign residents in Chile who come from high-risk locations may enter the country undergoing the procedures of the sanitary customs and a mandatory 14-day quarantine.

Curfew:

- A national curfew was decreed between 22:00 and 05:00 hrs. since March 22th to reduce social contact and facilitate the inspection of people who must comply with mandatory quarantine.

Quarantines and Sanitary Controls:

- **Caleta Tortel:** 14-day quarantine since March 14th.
- **Easter Island (Chile continental):** 14-day quarantine since March 20th. Curfew from 2:00 PM to 5:00 AM.
- **Chillán (South):** sanitary cord since March 23th. No one enters or leaves without a pass.
- **San Pedro de la Paz (south):** sanitary cord since March 25th. No one enters or leaves without a pass.
- **Chiloé island (south):** sanitary cord since March 25th. No one enters or leaves without a pass.

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- **Port Williams (south):** the entry and exit of any person is prohibited, except for those who carry essential cargo, which will be subject to strict sanitary customs. In addition, on March 25th, a 24-hour quarantine was decreed.

- **Arica to Coquimbo (north):** currently with Sanitary Customs.

- **Aysén and Magallanes (south):** currently with Sanitary Customs.

- **Vacation areas:** people who had moved from large cities to high-density second-home towns or hotels had to return to their residence no later than Tuesday 24th at 22:00. People over 65, or chronically ill may still remain, with prior notice to the local Seremi de Salud.

- On Wednesday March 25th, 2020, the government decreed total **quarantine in 7 communes of the capital:** Independencia, Lo Barnechea, Las Condes, Ñuñoa, Providencia, Ñuñoa and Santiago. The application period started from Thursday, March 26th, starting at 10:00 p.m., and will end in 7 days -which could be renewable depending on the contingency.

Other measures:

- March 16th: Suspension of classes at national level for colleges, universities and technical training centers.
- March 18th: Closure of shopping malls, restaurants, cinemas, bars, discotheques, among others.

II. LABOR MATTERS

1. Distance Work Law

On March 24th, 2020, the President of the Republic promulgated the **Law that Modifies the Labor Code on Distance Work**.

2. Bill that seeks to facilitate the access of workers to the unemployment insurance benefits of Law Nº19,728 in exceptional circumstances, protecting the income of workers, was send to the Senate by Presidential Message No. 020-368.

On March 25th, 2020, the bill announced by the executive, that seeks to facilitate the access of workers to the unemployment insurance benefits was send to the Senate by Presidential Message No. 020-368.

- Extraordinary access to unemployment benefits due to the statement or act of authority that sets out the total cessation of activities.
- Pacts for Temporary Reduction of Working Hours

3. "Covid-19" bill.

This measure seeks to guarantee the income of those employees who due to the emergency must remain at home without the possibility of telecommuting.

This measure may be implemented when: (a) there is a mutual agreement between the employee and employer; (b) there is a mandate from the health authority. Once these conditions are fulfilled, the employee will receive the income from the unemployment insurance according to the current regulation of the said insurance, but maintaining the employment relationship and all employment rights. Meanwhile, the employer will only have to continue paying the social security contributions.

4. Covid-19 Bonus

Regarding workers without a formal source of employment, a bonus equivalent to the *Subsidio Único Familiar* will be promoted, which will benefit 2 million people.

5. Solidarity Fund to face the crisis

Finally, the creation of a USD 100 million Solidarity Fund has been announced to address social emergencies derivate from declining sales.

III. TAX MATTERS

On March 19, the Chilean Government announced an economic plan to deal with the consequences of the spread of the Covid-19 virus in Chile.

1. Income Tax

- Provisional monthly payments (*Pagos provisionales mensuales*, PPM): PPM payment is suspended for the next 3 months. This measure would be in force from April.
- Annual income tax payment for SMEs (companies that generate income not exceeding UF (*Unidad de Fomento)* 100,000, approx. $ 2,855 million) is deferred until July 2020, according to the tax return filed in April 2020. This measure would be in force from April (tax year 2020).
- All the expenses of the companies related to face the contingency will be accepted as deductible for tax purposes. Immediately in force.
- Grant greater flexibility in deadlines to present sworn statements related to income tax return process for year 2020. Immediately in force.
- Tax income refund to which SMEs are entitled will be anticipated, receiving their refund in April 2020. This measure would be in force from April (tax year 2020).

2. VAT

- VAT payment is deferred for the next 3 months for companies with sales under UF 350,000, approx. $ 9,993 million. This measure would be in force from April (tax year 2020).
- VAT deferred payment ca be made in 6 or 12 monthly installments with 0% interest rate. This measure would be in force from July.

3. Real Estate Tax

- Payment of real estate tax in April is deferred for companies with sales under UF350,000, approx. $ 9,993 million, and for individuals with properties with a tax assessment under $ 133 million. This measure would be in force from April.
- Payment of this tax may be made in three installments, together with the following three real estate tax installments, with an interest rate of 0%. This measure would be in force from April.

4. Stamp Tax

On March 20, the Executive filed before the Chamber of Representatives, by means of Message No. 13-368, a Bill which provided of these measures (the "*Bill*"), among which is the above-mentioned transitory reduction. This bill is currently being discussed through Bulletin No. 13337-05 and was sent by the Chamber on March 24 to the Senate for its review.

Article third of the referred Bill provides the following:

- ITE[1][2] rates are temporarily reduced to 0 with respect to taxes accrued between April 1, 2020 and September 30 of the same year, both dates inclusive.

- If the Bill is published in the Official Gazette after April 1, 2020, the collection of ITE, interest and associated fines accrued in the intermediate period will not proceed. For these purposes, it is added that in the event that ITE has been paid for documents signed

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[1] Currently, ITE rates established for promissory notes, bills of exchange and any document that contains a money credit transaction are as follows:

a) 0.066% on the amount of the debt capital for each month or fraction of a month between the issue and the maturity of the same, with a maximum of 0.8%; and,

b) 0.0332% for documents containing sight or unmatured credit operations.

[2] The transitional reduction also applies to extensions or renewals of the respective documents and documents signed for imports or entry of goods from free zones under a deferred payment system.

as of April 1, 2020, prior to the date of publication of the Bill, such payments will be returned according to the general procedure established in the Tax Code[3].

- In the case of bond issuance lines or short-term debt securities lines whose first disbursement is made within the period between April 1, 2020 and September 30 of the same year, notwithstanding the application of the reduced rate of 0% for disbursements made in this period, the determination of the applicable ITE to subsequent disbursements included in the line will be maintained, until completing the maximum rate, currently 0.8%.

- Finally, for purposes of calculating ITE that would apply to refinancing operations that meet the requirements of article 24 No. 17 of ITE Law, operations or documents subject to refinancing which taxes have accrued in the period between April 1, 2020 through September 30 of the same year with the reduced rate of 0%, shall be deemed to have been affected by ITE rates that would have been applicable without the transitional reduction.

5. Others Measures

In the case of SMEs and people with low income, flexibility will be set forth in order to enter into tax debt payment agreements with the General Treasury of the Republic, without interest or fines. In addition, judicial collection and auctions due to tax debts are temporarily suspended. This measure would be in force from April.

[3] In order to obtain a refund, it must be evidenced, before the Internal Revenue Service, that these are operations or documents in respect of which the temporary reduction of ITE rate to 0% is appropriate and, if this entity requires it, the fact of having returned the amounts paid by the debtor to the creditor for this purpose, if applicable.

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