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Legal Alert

The sole tax of 10% on capital gains on instruments with stock market presence, established in Law 21.420, comes into effect.

As of September 2, 2022, the new sole tax of 10% on capital gains arising from the sale or redemption of securities with stock exchange presence, established in Article 1 of Law 21.420, will como into effect.

In this way, the existing tax exemption on such disposals ceases to exist, as part of a series of measures aimed towards the elimination or reduction of certain tax exemptions.

Thus, the higher value obtained in the disposal of instruments with stock market presence is taxed with a sole tax rate of 10% on the higher value obtained. Losses generated by this type of operations will only be deductible from the income derived from the sale of securities subject to this sole tax.

In order to determine the higher value subject to the sole tax, a distinction must be made between shareholders who are domiciled or reside in Chile and those who are not domiciled nor reside in the country.

In the case of taxpayers with domicile or residence in Chile, they may consider as acquisition value, at their choice: (i) the official closing price of the securities as of December 31 of the year of acquisition of the shares; or (ii) the acquisition value of the shares according to the general rules of the Income Tax Law.

In addition, for those instruments acquired prior to September 2, 2022, taxpayers who are domiciled or reside in Chile may consider as the highest value, the official closing price of the respective security as of December 31, 2021. The closing prices as of such date have been determined and published by the CMF (in General Rule No. 485 of August 30, 2022.

On the other hand, shareholders without domicile nor residence in Chile will only be able to use as cost the acquisition value according to the general rules of the Income Tax Law.

Notwithstanding the foregoing, for institutional investors, whether located in Chile or abroad, such as insurance companies or pension fund managers, the higher value obtained will not constitute income.

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