

**SERVICIO DE IMPUESTOS INTERNOS  
SUBDIRECCIÓN DE FISCALIZACIÓN  
DEPARTAMENTO ANÁLISIS DE RIESGOS  
INTERNACIONALES Y GRUPOS EMPRESARIALES**

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OFFICIAL SII DOCUMENTS BEAR THE SIGNATURE OF THE COMMISSIONER OF THE SII.**

**IMPARTS INSTRUCTIONS ON THE PROCEDURE  
FOR ENTERING ADVANCE PRICING  
ARRANGEMENTS IN ACCORDANCE WITH No. 7  
OF ART. 41 E OF THE INCOME TAX LAW. IT  
REVOKES EXEMPT RESOLUTIONS No. 68 OF  
2013 AND No. 114 OF 2022.**

**SANTIAGO, 06<sup>th</sup> MARCH 2025.-**

**SII EXEMPT RESOLUTION No. \_28.-\_\_\_\_/**

**WHEREAS:**

The provisions of Articles 6, letter A) No. 1 and 60 of the Tax Code, contained in Article 1 of Decree-Law No. 830 of 1974; the provisions established in Articles 1 and 7 of the Servicio de Impuestos Internos Organic Law, contained in Article 1 of the D.F.L. No. 7 of 1980 from the Ministry of Finance; and the provisions established in Article 41 E No. 7 of the Income Tax Law, contained in Article 1 of the D.L. No. 824 of 1974; and No. 3 of the article 2 of the Law No. 21.713; and Exempt Resolutions No. 68 of 2013 and No. 114 of 2022,

**CONSIDERING:**

**1<sup>st</sup>** That the SII is responsible for the application and audit of all internal taxes currently established or that may be established, whether fiscal or of any other nature in which the tax authorities have an interest and whose control is not specifically assigned by Law to a different authority.

**2<sup>nd</sup>** That Article 41 E of the Income Tax Law grants the Servicio de Impuestos Internos (Chilean tax authority - SII) the power to challenge the prices, values, or returns set, or to establish them if they have not been set, when cross-border transactions and those involving business reorganisations or restructurings carried out by taxpayers domiciled, resident, or established in Chile with related parties abroad have not been conducted at arm's length prices, values, or returns.

**3<sup>rd</sup>** That No. 7 of the aforementioned legal rule which regulates advance pricing arrangements, was completely replaced by letter j) of No. 3 of Article 2 of the Law No. 21.713, and establishes that taxpayers engaging in transactions with related parties abroad may propose an advance pricing arrangement (hereinafter APA) to the SII regarding the determination of arm's length prices, values, or returns for such transactions for the purposes of the provisions of the Article 41 E of the Income Tax Law.

**4<sup>th</sup>** This rule, set forth above, authorize the SII to establish, through a resolution, the manner and timing in which the taxpayer must submit an APA request.

**5<sup>th</sup>** That, in light of the changes introduced by the Law No. 21.713, that replaced the No. 7 of the Article 41 E of the Income Tax Law, is necessary to revoke the SII Exempt Resolution No. 68 of 2013, which "Imparts Instructions on the Procedure for Entering Advance Pricing Arrangements in accordance with No. 7 of Art. 41 E of the Income Tax Law", modified by SII Exempt Resolution No. 114 of 2022.

**IT IS RESOLVED:**

**1<sup>st</sup> Establish** the following procedure for Taxpayers engaged in transactions with related parties located abroad, for the purposes outlined in Article 41 E No. 7 of the Income Tax Law, may submit to the Service an APA request containing the arm's length prices, values, or returns of such transactions.

**2<sup>nd</sup> Pre-filing.** The Pre-filing process is a voluntary stage formalized within the APA procedure which allows taxpayers intending to file an advance pricing arrangement (hereinafter the request) to submit a Pre-filing to the SII regarding the viability of the presentation of the possible arrangement.

For these purposes, the applicant must download and fill out the form available on the website of this Service. Once the form has been completed with the required data, it must be sent to the e-mail address [area.apa@sii.cl](mailto:area.apa@sii.cl).

a) Content of the Pre-filing:

- i) Identification of the taxpayer filing the request, with name or company name, tax identification number, address and identification of the legal representative(s) before this Service.
- ii) Description of transactions that are the subject of the possible anticipated arrangement.
- iii) Basic elements of the valuation proposal to be formulated. For these purposes, basic elements shall be understood as the price, value or profitability to be proposed, indication of the transfer pricing method, type of analysis (global or segmented if applicable) and part analysed.
- iv) Indication of an e-mail address for communications between the taxpayer and the Service.

b) The Service will analyse the Pre-filing request and may require clarifications and additional information from the taxpayers and set the meetings it deems appropriate to clarify doubts about the submission and for the taxpayers to ask any questions they may have about the process.

c) Once the information has been reviewed, this Service will communicate to the interested parties the viability of the arrangement within two months from the date of submission of said request through the e-mail indicated by the applicant, whose content will refer exclusively to the pertinence of the submission of the anticipated arrangement and not to its result, therefore, it does not prevent the taxpayer's right to submit the APA request.

**3<sup>rd</sup> Requirements of the APA request.** Whether or not a Pre-filing has been submitted, taxpayers that carry out transactions with related parties located abroad may propose to the Service an advance transfer pricing arrangement that must contain at least the following data and information:

- a) Identification of the taxpayer filing the request, with name or company name, tax identification number, address and identification of the legal representative(s) before this Service.
- b) Identification of the related persons or entities with which the transactions referred to in the respective request will be carried out, indicating the company name, tax domicile and Tax ID.
- c) Type of arrangement: unilateral, bilateral or multilateral.
- d) The description of the respective transactions, their prices, values or returns estimated to be at arm's length.
- e) The period to be covered by the arrangement.
- f) Transfer pricing report or study in which the methods referred to in number 2 of Article 41 E of the LIR have been applied to the respective transactions.
- g) Expressly state whether the taxpayer authorizes the Service to publish the criteria, economic, financial and commercial reasons, among others, and methods that will serve as the basis for an eventual arrangement.
- h) The presentation must be signed with an advanced electronic or handwritten signature, by whoever has the authority to represent the taxpayer for this type of actions before the Service.

To submit the request, the user must require to be previously enrolled to access the special system designed for these presentations, by sending an e-mail to [area.apa@sii.cl](mailto:area.apa@sii.cl), with the identification of the taxpayer making the request, and of the legal representative(s) before this Service, together with the respective power of attorney or mandate when applicable.

Once the taxpayer is enrolled, he/she must access the following link: [https://www.sii.cl/servicios\\_online/1044-enviar\\_solicitud\\_doctos\\_eng-4430.html](https://www.sii.cl/servicios_online/1044-enviar_solicitud_doctos_eng-4430.html) being necessary to identify himself/herself with his/her RUT and authenticate with his/her tax code, unique code or other authentication mechanism to be implemented in the future.

**4<sup>th</sup> Information that must be attached to the application.** The taxpayer, together with the APA application, must submit the following information:

- a) Corporate structure of the business group to which the enterprise belongs, including parent companies, controlling entities, subsidiaries, agencies, or directly or indirectly related parties abroad, with indication of tax domicile and Tax ID.
- b) An eight-column General Balance Sheet at the sub-account level, on numbered paper, stamped by the Servicio de Impuestos Internos, and signed by the Legal Representative of the entity requesting the arrangement, covering the two fiscal years preceding the submission of the request.
- c) Audited financial statements and their explanatory notes from the entity seeking the arrangement, if issued and audited in due time, for the two fiscal years preceding the submission of the request.
- d) Copies of the contracts for transactions with related parties abroad that are relevant to the arrangement request, along with a simple translation into Spanish if applicable. These may involve the distribution, production, use and licensing of intangible assets, financial transactions, and service provision, among others.
- e) Identification of the holders of intellectual property rights such as patents, trademarks, or other intangible assets that directly or indirectly affect the transactions related to the advance pricing arrangement request.
- f) Information regarding any other advance pricing arrangements or mutual agreement procedures entered into or in progress concerning entities within the group that directly or indirectly relate to the transactions specified in the advance pricing arrangement request.

**5<sup>th</sup> Content of the transfer pricing report or study.** For the purposes outlined in this resolution, the transfer pricing report or study accompanying the respective request shall contain - at least - the following information:

- a) A detailed description of the transactions subject to the request, the functions or activities performed, the assets, and the risks assumed by the various related parties involved in the arrangement's transactions.
- b) A description of the main activities conducted by the enterprises within that group, including the location(s) where these activities take place.
- c) A description and justification of the economic assumptions and conditions of the proposal, including aspects such as estimated sales volumes, market conditions, terms of international exchange, exchange rates, and any other relevant circumstances or information for the proposal.
- d) A description of the group's transfer pricing policy, including the method(s) for setting prices adopted by the group, justifying its alignment with the arm's length principle.
- e) An explanation regarding the selection of the best transfer pricing method according to the particular circumstances of the proposed case, and profitability indicator if applicable.
- f) The criteria for selecting comparable transactions or enterprises, price, value, or return ranges of comparable transactions or enterprises, its financial statements with its notes and the comparability adjustments, if any have been made.

- g) The proposed value, price, or return for the transactions under consideration in the request.
- h) In the case of proposing a segmented analysis, by product, activity, country or operations with related and independent parties, it should explain how such segmentation was carried out, indicating the accounting accounts used and how they were assigned.
- i) If the proposal involves a transfer of functions, assets, or risks between related parties, the commercial or economic benefits that the Chilean entity will derive from such transfer must be specified.
- j) Any other aspect that the taxpayer considers relevant for the analysis of the transactions included in the arrangement.

**6<sup>th</sup> Certification.** The Head of the Departamento de Análisis de Riesgos Internacionales y Grupos Empresariales, under the Subdirección de Fiscalización, will certify the delivery or availability of all the aforementioned information and such other information as the Service may eventually require. This certification will be issued for the purpose of calculating the 12-months period within which the Service will respond to the taxpayer's request.

**7<sup>th</sup> Processing of the request.** The Service will analyse the request and may require relevant clarifications or meetings from the taxpayer during the processing of the arrangement, as well as any other data, reports, or information related to the request, which neither suspends nor interrupts the calculation of the time limit to make a decision.

For the purpose of the successful resolution of the APA, the Service may make an alternative proposal to the interested party, with respect to the transaction or transactions that are the subject of the request, in order to agree on the price, value or returns that best adjusts to the arm's length principle.

**8<sup>th</sup> Period for the processing of the request.** The Service must respond to the taxpayer's request within a period of 12 months from the date the taxpayer has submitted or made available to the Service all the necessary information for its resolution. The response can either approve the request, leading to the signing of the corresponding agreement or reject it through a resolution. The application will be considered rejected when the taxpayer does not provide the information requested by the Service, for which he must be requested at least twice by notification.

If the Service does not respond within the legal period, the taxpayer's request will be deemed rejected, allowing the taxpayer to submit a new proposal for an arrangement, as established in the sixth paragraph of No. 7 of Article 41 E of the LIR.

**9<sup>th</sup> Resolution of the request and entering of the arrangement agreement.** The Service, by means of a resolution, may reject, at its sole discretion, the request for an advance pricing arrangement, which shall not be subject to appeal, nor shall it admit any recourse whatsoever, according to the provisions of the third paragraph of No. 7 of Article 41 E of the LIR.

In the event that the Service accepts, totally or partially, the taxpayer's request based on the information provided, or in the case that the taxpayer accepts the proposal of the Service, an arrangement agreement will be signed by the Service and the requestor. This arrangement will apply to transactions carried out by the requestor from the same fiscal year on which the arrangement is signed.

**10<sup>th</sup> Content of the arrangement agreement.** The arrangement agreement that will be entered into in accordance with the previous resolved, must comply with the following requirements:

- a) Place and date of its formalisation.
- b) Identification of the local taxpayer, with name or company name, tax identification number and identification of related parties located abroad.
- c) Description of the transactions referred to in the arrangement.
- d) Indication of the arm's length price, value, or return accepted in the arrangement, along with the method, profitability indicator and analysed part if applicable.
- e) Periods to which the arrangement will apply.

- f) Form of compliance with the arrangement.
- g) Express indication as to whether the agreement will be applied retroactively.
- h) Taxpayer's authorisation for the publication of the criteria, economic, financial, and commercial reasons, among others, and the methods under which the arrangement was established.
- i) How and when the taxpayer shall deliver an annual report demonstrating the conformity of its transfer prices with the agreed terms and conditions.
- j) Indication of the essential information or circumstances taken into account in the arrangement ("critical assumptions") and whose modification would terminate the arrangement.

**11<sup>th</sup> Advance pricing arrangements with foreign tax administrations.** Requests for advance pricing arrangements involving foreign tax administrations, whether bilateral or multilateral, will be governed by the rules outlined in this resolution.

To include foreign tax authorities in the advance pricing arrangement, the requestor must expressly request it in its application. In such cases, the taxpayer must comply with the requirements and provide all the documentation listed in the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> resolved of this resolution, as well as any documentation that may have been provided to foreign tax authorities.

Once all the relevant documentation has been received, the Service will analyse the proposal and its merits and communicate with the respective foreign tax administrations to arrange meetings and discuss the advance pricing arrangement, coordinating the necessary actions for the correct implementation in accordance with the regulations in force in each jurisdiction.

In the event that the total or partial acceptance of the taxpayer's request is appropriate, an agreement will be signed with the local taxpayer, and the Service must notify the corresponding tax administrations of this procedure.

**12<sup>th</sup> Retroactive implementation of the arrangement.** The parties may agree that the effects of the arrangement shall extend to operations carried out up to three fiscal years prior to that in which the arrangement is signed, which must be expressly stated in the arrangement agreement.

If the retroactive application of the arrangement is determined, the transfer pricing adjustments made to previous periods will not be affected by the Single Tax of Article 21 of the LIR, nor will penal interest or fines be applied, without producing effects on taxes other than those established in the Income Tax Law.

**13<sup>th</sup> Monitoring compliance with the arrangement.** The taxpayer shall deliver to the Service an annual report demonstrating the conformity of its transfer prices with the agreed conditions. The respective arrangement agreement shall establish the form and term in which the referred report shall be delivered. If this duty is not complied with, the taxpayer will be required to submit the report under a warning that, if it does not do so within 30 working days, the Service may terminate the advance arrangement for noncompliance with the taxpayer's obligations. The termination of the anticipated arrangement will be effective from the same fiscal year in which the resolution that establishes it is notified.

**14<sup>th</sup> Extension and renewal of advance pricing arrangements.** The advance pricing arrangement can be extended or renewed, subject to a prior written arrangement signed by the requestor and the Service, and must have the conformity of the foreign tax administrations involved in the original arrangement if the arrangement was bilateral or multilateral. For this purpose, the taxpayer must submit a request for extension through the system mentioned in the 3<sup>rd</sup> resolved of this administrative act, at least 6 months prior to the termination of the originally subscribed arrangement.

This request must comply with the requirements and be accompanied by the same documents outlined in the in the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> resolved of this resolution, as they provide the reasons or justifications for its approval.

**15<sup>th</sup> Termination of advance pricing**

**arrangements.** In accordance with the provisions of the seventh paragraph of No. 7 of Article 41 E of the Income Tax Law, the Service can nullify the advance pricing arrangement at any time through a reasoned resolution if the taxpayer's request was based on erroneous or maliciously false information, or if there has been a substantial change in the essential information or circumstances upon which the arrangement was based at the time of its subscription, extension, or renewal.

The resolution nullifying the advance pricing arrangement will be notified to the interested party by the Service in accordance with the general rules.

Regarding the arrangements referred to in the 11<sup>th</sup> resolved, the resolution nullifying an advance pricing arrangement will be communicated, when applicable, to the foreign tax administrations through the most expeditious means possible.

The aforementioned resolution will become effective upon its notification to the taxpayer when the request was based on erroneous information or when the essential information or circumstances considered at the time of its subscription, extension, or renewal have substantially changed.

If the revocation is based on the maliciously false nature of the information provided in the request, the advance pricing arrangement will become ineffective from the date of signing the original agreement or its renewals or extensions, when such information was invoked by the taxpayer on this last request. The presentation of maliciously false information will be sanctioned in the manner established by the first paragraph of number 4 of article 97 of the Tax Code.

Resolutions issued in accordance with the instructions outlined in this administrative act cannot be claimable or subject to any recourse, notwithstanding any claims or recourses that may apply to the resolutions, assessments or tax payment notices, interests, and fines issued or applied by the Service as a result of the advance pricing arrangement's nullification.

**16<sup>th</sup> Termination of advance pricing arrangements at the request of the interested party.** The requestor can nullify the advance pricing arrangement they have entered into with the Service if the essential information or circumstances considered at the time of its subscription, extension, or renewal have substantially changed. To do so, the taxpayer must express their intention in writing by submitting a written document that must be sent through the system provided for the processing of applications, as described in 3<sup>rd</sup> resolved.

The taxpayer's written document must include a detailed explanation of the changes in the essential information or circumstances referred to in the preceding paragraph, which justify the nullification of the advance pricing arrangement, its extension, or renewal. The Service will communicate this situation, when appropriate, to the other foreign tax administrations involved in the arrangement. The arrangement will cease to be effective from the date of the written document, enabling the Service to fully exercise its powers under the law concerning all of the taxpayer's transactions.

**17<sup>th</sup> Requests in process.** Applications filed before the entry into force of the amendments introduced by Law No. 21.713 to Article 41 E of the LIR, are governed by the rule in force at the date of filing the application.

**18<sup>th</sup>** This resolution will come into effect upon its publication, in excerpt, in the Official Gazette.

**19<sup>th</sup>** Upon the entry into force of this resolution, Resolutions Ex No. 68 of 2013 and No. 114 of 2022 are hereby repealed.

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**DIRECTOR (S)**

MSB

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