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MATTER: Joint resolution between the Servicio de Impuestos Internos and the Sistema Nacional de Aduanas which establishes coordination instances, procedures, and deadlines for resolving requests for advance pricing arrangements regarding arm's length prices, values, or returns for the import of goods between related parties.

SANTIAGO, 17th June 2016

Today, the following has been resolved:

SII EXEMPT RESOLUTION No. 54

SNA EXEMPT RESOLUTION No. 3637

WHEREAS:

The provisions of Articles 6, letter A) No. 1 and 60 of the Tax Code, contained in Article 1 of D.L. No. 830 of 1974; Articles 1 and 7 of the Servicio de Impuestos Internos Organic Law, contained in Article 1 of D.F.L. No. 7 of 1980; the Servicio Nacional de Aduanas Organic Law contained in Decree with Force of Law No. 329/1979, both from the Ministry of Finance; Article 41 E No. 7 of the Income Tax Law, contained in Article 1 of D.L. No. 824 of 1974; Article 3 of Law No. 18,575 whose consolidated, coordinated and systematised text was set by D.F.L. No. 1-19,653 of 2000 from the Ministry General Secretariat of the Presidency; Law No. 19,880 which establishes the basis for the administrative procedures that govern the acts of the State Administration; Resolution No. 1,600 dated 30th October 2008, from the Comptroller General of the Republic, on the exemption of the *ex ante* control of legality; and the provisions of Exempt Resolution No. 64 dated 9th March 2016, from the Ministry of Finance, published in the Official Gazette on 24th March 2016.

CONSIDERING:

1. That Article 41 E No. 7 of the Income Tax Law stipulated that taxpayers engaging in transactions with related parties can propose an advance pricing arrangement regarding the determination of arm's length prices, values, or returns for such transactions. Such advance pricing arrangement concerning the import of goods, must be jointly signed by the Servicio de Impuestos Internos (Chilean tax authority - SII) and the Servicio Nacional de Aduanas (National Customs Service), hereinafter referred to as "the Services". It is the Ministry of Finance that will establish, through a resolution, the procedure by which both institutions will resolve the matter.
2. That Exempt Resolution No. 64 of the Ministry of Finance, published in the Official Gazette on 24th March 2016, hereinafter referred to as "the Resolution of the Ministry of Finance", set the procedure for resolving transfer pricing arrangement requests concerning the import of goods, hereinafter referred to as "advance pricing arrangement". It establishes in its 1st resolved that such requests, in accordance with No. 7 of Article 41 E of the Income Tax Law, must be submitted to the Servicio de Impuestos Internos, which will then inform the Servicio Nacional de Aduanas.
3. That the Resolution of the Ministry of Finance, in its 4th and 11th resolved, states that the Services must establish, through a joint resolution, the coordination instances and their respective procedures and deadlines for the purpose of resolving the advance pricing arrangement requests. Additionally, it states that, within the procedure, the requestor can be required to provide the necessary clarifications, as well as any other data, report, and information related to the request.

4. That resolved No. 5 of the Resolution of the Ministry of Finance establishes that the Services must respond to the request, either by entering into an arrangement agreement or by rejecting the request through a joint resolution, within the 6-month period counted from when the requestor has provided or made available all the information deemed necessary to resolve it.

5. That resolved No. 7 of the Resolution of the Ministry of Finance also establishes the possibility of extension or renewal, subject to a prior written agreement between the requestor and the Services, within the periods and according to the same procedure set for the entering of the initial advance pricing arrangement.

6. That, lastly, the Services can, at any time and through a joint resolution, nullify the advance pricing arrangement for the reasons outlined in resolved No. 8 of the Resolution of the Ministry of Finance, notwithstanding that the interested party can also do so, for the reasons stated in resolved No. 9 of the Resolution of the Ministry of Finance, in the manner and deadlines outlined therein.

IT IS RESOLVED:

1. The party interested in entering into an advance pricing arrangement regarding arm's length prices, values, or returns for the import of goods with a related party must submit a written request to the Oficina de Partes (Records Office) of the Servicio de Impuestos Internos in Spanish, and in the terms outlined in resolved No. 1 of Resolution No. 64 of the Ministry of Finance. The request must include all the required documentation specified in resolved No. 2 of the same resolution, duly numbered when applicable, as per the same resolved.

If the request is submitted to a Regional Directorate or Unit of the Servicio de Impuestos Internos, said office must forward the submission made by the taxpayer, along with all accompanying documents, to the National Directorate on the same day or no later than the following business day after the submission. The request must include, at minimum, all the information outlined in resolved No. 1 and 2 of Resolution No. 64 of the Ministry of Finance.

For the provisions of this Resolution, the following definitions shall apply:

- a) "the Services": the Servicio de Impuestos Internos and the Servicio Nacional de Aduanas.
- b) "the Resolution of the Ministry of Finance": Exempt Resolution No. 64 of the Ministry of Finance published in the Official Gazette on 24th March 2016.
- c) "the most expeditious means": electronic means, telephone, written correspondence, teleconference, or any other form of communication that ensures acknowledgement by the Services.

The Servicio de Impuestos Internos will act as the coordinator of the entire procedure before the interested party, with the Departamento de Análisis Selectivo del Cumplimiento Tributario (Selective Tax Compliance Analysis Department) of the Subdirección de Fiscalización (Audit Sub-Directorate) being responsible for this process. On the side of the Servicio Nacional de Aduanas, the unit responsible for this will be the Sub Departamento de Valoración (Valuation Sub-Department).

2. The interested party, in its advance pricing arrangement request, can request a hearing from the Services to present the main aspects concerning transactions with its related parties abroad, which constitute a substantial part of the proposed advance pricing arrangement for the import of goods.

3. Upon receipt of the request by the Servicio de Impuestos Internos, it will send a copy of the request and its accompanying documentation to the Servicio Nacional de Aduanas through the most expeditious means within 10 business days following its receipt. The Servicio Nacional de Aduanas will acknowledge receipt of the information within 5 business days after receiving it, notwithstanding the provisions of the following resolved.

4. If the request has been received with all the necessary information for its resolution, the Servicio de Impuestos Internos will certify this situation, and such certification will also be confirmed by the Servicio Nacional de Aduanas in the same manner.

For the purposes mentioned above, the Services will communicate these certifications to each other through the most expeditious means.

Starting from the date of certification by the Servicio de Impuestos Internos, the 6-month period within which the Services must respond to the request will be calculated, in accordance with the provisions of resolved No. 5 of the Resolution of the Ministry of Finance.

5. The certification referred to in the preceding numeral will not prevent the Services, within the aforementioned 6-month period, from requesting clarifications and additional information from the requestor as they deem necessary to render a decision. Such requests will be communicated to the other Service through the most expeditious means.

6. The Services will independently evaluate the request based on their respective procedures and regulations. For this purpose, they will have a period of 90 business days from the certification date. If deemed necessary, meetings between competent officials from both Services will be coordinated, with the possibility of involving the requestor. Additionally, the Services commit to providing regular reports to each other through the most expeditious means to ensure that they remain informed about the progress of the process.

Within the aforementioned period, the Services will issue a preliminary report detailing their opinions regarding the request, which will be exchanged electronically.

7. Additionally, within 15 business days following the expiration of the evaluation period mentioned in the preceding numeral, the Services will schedule at least one joint technical meeting to review the respective reports and formulate any necessary observations. The summoning of such meetings will be conducted electronically and can be initiated by either of the Services.

8. If the Services decide to accept, totally or partially, the request for an advance pricing arrangement, this decision must be documented in an Agreement, which will be signed by the Superior Head of each Service, or by the official(s) to whom this authority has been delegated, and, when applicable, by the foreign tax administration(s) that have intervened, and by a representative of the taxpayer expressly authorised for this purpose. The Agreement must record the main technical information on which the total or partial acceptance of the arrangement request was based, indicate the annual transactions to which it will apply, and the validity period.

9. Once the Agreement is signed, the advance pricing arrangement will be applied to the transactions involving goods carried out from the same fiscal year of the request and for the following three fiscal years.

10. If any of the Services express their nonconformity with the proposed advance pricing arrangement, or its extension or renewal, a joint resolution will be issued by the Services, documenting the rejection of the arrangement, the extension or renewal proposal, as appropriate.

Notwithstanding the aforementioned, the request will also be deemed rejected if the Services do not provide a response within the 6-month period referred to in the final paragraph of resolved No. 4 of this Resolution. In this case, the requestor can propose the entry of the arrangement again, following the same procedure outlined in this Resolution.

The procedure flow established in this Resolution is described in the Annex attached to this Resolution, which forms part of it.

11. The advance pricing arrangement can be extended or renewed before its expiration, upon prior written agreement signed by the requestor, the Servicio de Impuestos Internos, the Servicio Nacional de Aduanas and, when applicable, the foreign tax administration(s) involved. Consequently, it will be formalised in an administrative document and will require the prior and timely processing of the information. Considering that it cannot be extended or renewed by the tacit consent of the involved parties, the request must be submitted at least 6 months prior to the termination of the validity of the originally signed agreement.

12. The advance pricing arrangements can be nullified at any time, upon request of either of the Services. Subsequently, a joint resolution will be issued, specifying the reason(s) as outlined in resolved No. 8 of the Resolution of the Ministry of Finance, under which it has been decided to nullify the arrangement. This Resolution will indicate the facts that led to this determination.

13. The Servicio de Impuestos Internos will notify the taxpayer of the joint resolution that nullifies the advance pricing arrangement, with a copy to the Servicio Nacional de Aduanas. This resolution will become effective from the date of its notification to the taxpayer, except when it is based on the maliciously false nature of the information accompanying the request. In such cases, it will cease to be effective from the date of the original agreement or its extensions or renewals, notwithstanding the sanctions outlined in section 1 of No. 4 of Article 97 of the Tax Code.

14. The advance pricing arrangement can also be nullified at the request of the taxpayer, in the event of a substantial change in the essential information or circumstances considered at the time of its signing, extension, or renewal. To do so, the taxpayer must express its intention through a written notice addressed to the Servicio de Impuestos Internos or the Servicio Nacional de Aduanas. Both services must reciprocally communicate this situation within 10 business days following the date of the notice, including a copy of the submission. If both services confirm the invoked circumstances, the arrangement will cease to be effective from the date of the taxpayer's notice, enabling each Service to fully exercise their powers under the law concerning the taxpayer's transactions.

15. For the purposes of this Resolution, the opinions exchanged by the Services during the evaluation process of the advance pricing arrangement request must be understood to be non-binding.

16. This Resolution comes into effect upon its publication in the Official Gazette.

RECORD, COMMUNICATE AND PUBLISH

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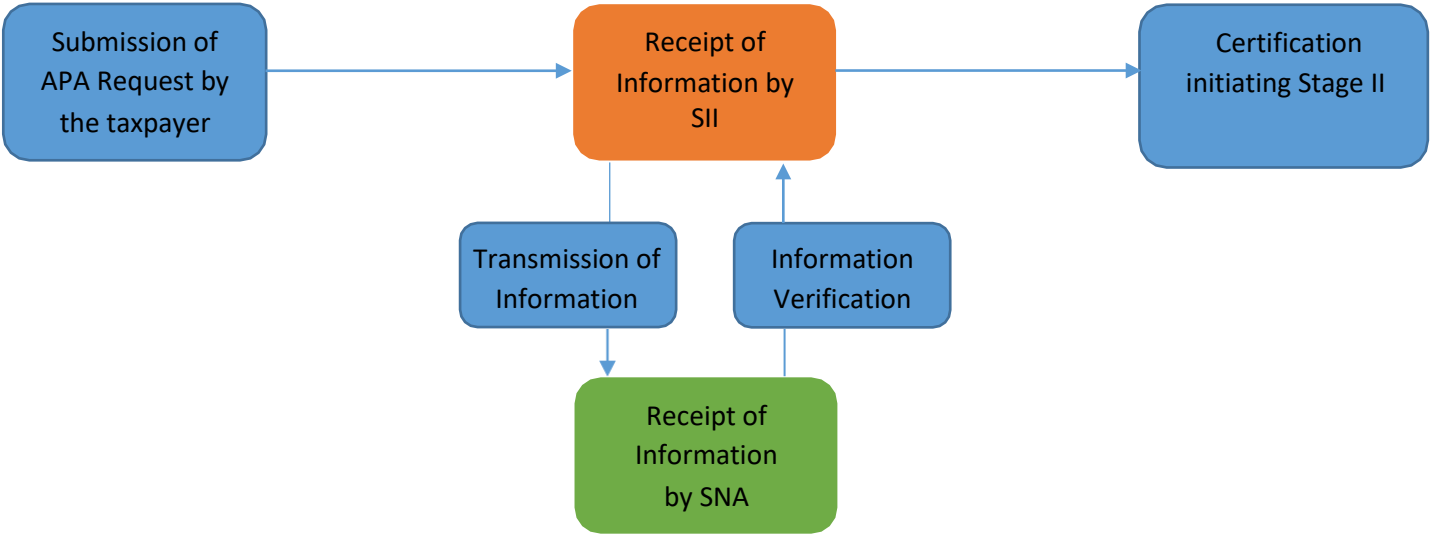
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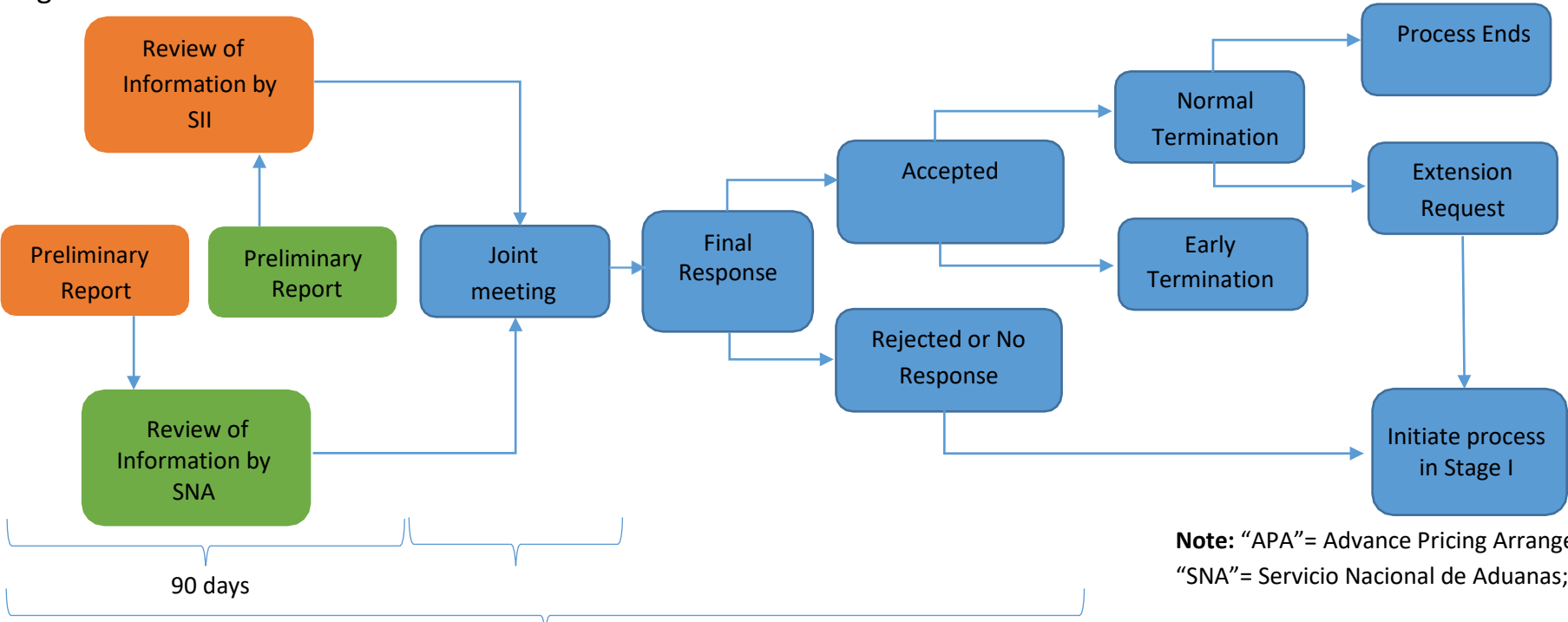
- Secretariat of the Director of the Servicio de Impuestos Internos.
- Secretariat of the Director of the Servicio Nacional de Aduanas.
- Subdirección de Fiscalización.
- Oficina de Partes.
- Bulletin of the Service.
- Internet.
- Official Gazette.

BASIC FLOW SII-CUSTOMS APA IMPORTATION PROCEDURE

Stage I



Stage II



Note: “APA”= Advance Pricing Arrangement.
“SNA”= Servicio Nacional de Aduanas; “SII”= Servicio de Impuestos Internos.

15 days