

Legal Alert: New Mining Royalty Act



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On August 10, Act 21.591 on Mining Royalty was published in the Official Gazette. The Act establishes the creation of a new Mining Royalty in Chile, which replaces the current Specific Tax on Mining.

The Act has several key aspects, including:

1. The creation of two new taxable components:
 - a. An ad valorem tax of 1% on annual copper sales greater than or equal to 50,000 metric tons of fine copper (TMCF).
 - b. A progressive rate based on mining operational margin or annual sales applied on taxable mining operating income.
2. The New Royalty replaces the Specific Tax of Article 64 bis of the Income Act, which established a progressive rate according to annual sales applicable on the taxable mining operational income. The main difference is the incorporation of the aforementioned Ad valorem component.
3. Mining companies with annual copper sales exceeding 50,000 TMCF will be subject to the ad valorem tax. This new tax will therefore be levied mainly on medium and large copper mining companies. Small-scale, artisanal, and pyramid miners are excluded.

4. The New Royalty applies to sales of mineral substances already extracted. Consequently, the exploitation of lithium is exempt from the new tax.
5. The Act sets a maximum tax limit for mining operators. The limit is 46.5% of the adjusted taxable mining operating income for most operators, and 45.5% for those with sales below the equivalent of 80,000 TCMF.
6. Mining operators under the New Royalty Act must provide audited annual financial statements, both individual and consolidated, to the Financial Market Commission (as per Act 18.045 of the Securities Market).
7. Taxpayers subject to the New Royalty that have tax invariability will follow provisions effective January 1, 2022 until tax invariability ends (grandfathering rule), with the option to apply for the New Royalty beforehand (and thereby waive tax invariability).
8. The Act includes the creation of a Regional Fund for Productivity and Development, which will finance regional governments through their investment budgets. Additionally, modifications to legal bodies will regulate an extra contribution from the Municipal Common Fund for regions with mining company deposits subject to the New Royalty.
9. The Act will take effect on January 1, 2024. However, the provisions relating to the Regional Fund for Productivity and Development, and the amendments to Decree Act 3.063 of 1979 on Municipal Revenues, and Act 18.695 on the Organic Constitutional Law of Municipalities, will take effect on January 1, 2025.



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