FUTBoI: The 2014 Chilean Tax Reform and the Elimination of Chile's FUT

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FUTBOL: THE 2014 CHILEAN TAX REFORM AND THE ELIMINATION OF CHILE’S FUT

Cash Kinghorn*

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I. Introduction

On September 30, 2014, the Chilean legislature passed Law No. 20.780, substantially changing the country’s tax structure. This significant modification seeks to raise 3 percent of GDP through an increase in the corporate tax rate, the elimination of tax exemptions or loopholes, generally used for tax avoidance or evasion, and a number of other tax alterations. This tax reform is expected to fund a variety of social programs, including an education reform following the 2011-2012 student protests. This reform also attempts to close the largest income gap (between the highest and lowest deciles) in Latin America and the Organisation for Economic Co-operation and Development (“OECD”). However, the best way to close this gap and retain sufficient levels of investment and growth is an area of significant debate both internally within Chile and externally among economists.

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1 Rodrigo Benítez & Jorge Narbona, Chile Tax News: Executive Summary Tax Reform, Law No. 20.780, 1, (BDO, December 2014).

2 Elif Ture, Chile’s Experience with Inclusive Growth, in CHILE: SELECTED ISSUES PAPER 9, 10 (International Monetary Fund, July 2014).


4 Daniel Rodríguez-Delgado & Roberto Schatan, Chile’s Tax System and the 2014 Tax Reform, in CHILE: SELECTED ISSUES PAPER 26, 26 (International Monetary Fund, July 2014).

5 Benedikter, supra note 3, at 150.

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This paper will first provide a brief history of Chilean tax law (1975-2013) as well as information regarding the 2014 Tax Reform and its alterations to Chile’s tax structure.6 Next will be a brief discussion of several of the reforms primary provisions and what they could mean for the Chilean economy.7 Following this will be an analysis of the changes to both the corporate income tax (“CIT”) and personal income tax (“PIT”) rate, the elimination of the Taxable Profits Fund (“FUT”) tax exemption, and how these changes will affect small and medium-sized enterprises (“SMEs”) operating in Chile.8 Finally, this paper will conclude with a few proposals, specifically relating to the repeal of the FUT, and what its potential effect could be on investment and growth in Chile.9

II. Background

A. The History of Chilean Tax Law (1975-2013)

To fully understand how Chile has progressed since 1990 and how substantial of a step the 2014 Tax Reform is for the future of Chile, it is important to briefly discuss the taxation and government polices enacted by General Pinochet’s government from 1973-89.10 Immediately following the 1973 coup d’état that brought Pinochet to power, inflation skyrocketed to 375 percent in 1974, and unemployment rose from 3 percent to approximately 15 to 20 percent.11 Subsequently, in 1975, economists trained and taught by Milton Friedman at the University of Chicago joined the Chilean government as economic advisors.12 This group of individuals, both endearingly and disdainfully, were labeled the “Chicago Boys.”13 The “Chicago Boys” quickly exerted substantial influence over economic policy, especially when Sergio de Castro (a “Chicago Boy”) became the Minister of Finance at the end of 1976, subsequently surrounding himself with other “Chicago Boys.”14

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6 Francisco Rosende, Commentary on Chile: Bachelet’s Tax Reform—Some Preliminary Thoughts, in Progressive Tax Reform and Equality in Latin America 57, 57 (Woodrow Wilson Center, 2015).
7 Benitez, supra note 1, at 1-2; see also Regina Scherzer, Joseph Courand & Hugo Hurtado, Chile Tax Alert, 1-2, 5 (Deloitte, August 23, 2014).
8 Scherzer, supra note 7, at 1-2; see also Rosende, supra note 6, at 58.
9 Benedikter, supra note 3, at 150.
10 Tasha Fairfield, The Political Economy of Progressive Tax Reform in Chile, Woodrow Wilson Center: Update on the Americas, March 2014, at 1; see also Rosende, supra note 6, at 150.
11 Naomi Klein, The Shock Doctrine: The Rise of Disaster Capitalism, 97 (Henry Holt and Co., July 2008); see also Ricardo Ffrench-Davis, Economic Reforms in Chile: From Dictatorship to Democracy, 191 (University of Michigan Press, 2002). The former citing the 20 percent and the latter citing to 15.7 percent unemployment. The latter also shows that unemployment stood at around 19 percent in 1983 or 31.3 percent if you exclude emergency job programs. Id.
13 Friedman, supra note 12, at 398; see also Gary S. Becker, What Latin America Owes to the “Chicago Boys”, (Hoover Digest, 1997 No. 4).
14 Friedman, supra note 12, at 398; see also Hernán Büchi, The Economic Transformation of Chile: A Personal Account, 33 (HACER, 2009).
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The “Chicago Boys” outlined their systematic economic reforms for Chile in “Program for Economic Development” or El ladrillo (a.k.a. “The Brick”).\(^{15}\) The Brick advocated widespread deregulation and privatization, along with cutting tariffs and reducing taxes, a system commonly referred to as laissez-faire economics.\(^{16}\) The deregulation and privatization reforms implemented cut public spending in half and led to the privatization of approximately 500 state-owned companies and banks by 1980.\(^{17}\) Tax reforms during this time coincided with a shift in domestic economic policy in an attempt to correct the widespread inflation ravaging Chile since Pinochet’s rise to power.\(^{18}\) These reforms included the creation of a value-added tax (“VAT”), and the abolition of special tax regimes, exceptions, and privileges.\(^{19}\) The first VAT was implemented in 1974, at a rate of 20 percent, and subsequently became the pillar of the tax system that still exists in Chile.\(^{20}\)

Despite (or arguably because of) these economic steps, the Chilean economy lagged until 1982, when a banking crisis forced significant changes to the system.\(^{21}\) In 1985, following this economic contraction, the newly-appointed economic minister, Hernán Büchi (not a “Chicago Boy”) implemented a neoliberal, pragmatic approach, allowing for greater government intervention.\(^{22}\) Under this approach, the government’s primary focus was on fiscal solvency and economic growth issues, as opposed to privatization and deregulation, which allowed Chile’s GDP to expand at a robust 5 percent between 1984 and 1997.\(^{23}\) Part of this policy shift included tax reformation in 1984, as the previous tax structure ignored how their provisions adversely impacted savings and investment for businesses or individuals.\(^{24}\) The 1984 reform implemented a reduction in the marginal tax rate, a modification of the income tax base, integration of the PIT

\(^{15}\) Büchi, supra note 14, at 23.

\(^{16}\) Büchi, supra note 14, at 23; see also Becker, supra note 13. See generally Laissez-faire Economics Definition, BUSINESS DICTIONARY, http://www.businessdictionary.com/definition/laissez-faire-economics.html (last visited Mar. 27, 2016). (Laissez-faire economics is grounded in the belief that individuals are naturally motived by self-interest, therefore their economic activities should be unrestrained by the government and driven only by market forces).

\(^{17}\) Omar Sanchez, Mobilizing Resources in Latin America: The Political Economy of Tax Reform, 20 (Palgrave, McMillin, July 6, 2011); see also Moisés Naím & Joseph S. Tulchin, Competition Policy, Deregulation, and Modernization in Latin America, 77 (Lynne Rienner Publishers, 1999). Privatization is the process by which an enterprise or industry is transferred from public-sector, government control to private, individual investor control. Id.

\(^{18}\) Sanchez, supra note 17, at 21.

\(^{19}\) Id. A value-added tax is a type of consumption tax that is placed on a product when value is added during stages of production or at its distribution. Id.

\(^{20}\) Sanchez, supra note 17, at 21-23 (explaining that during this time period, direct tax reform looked to tax all income sources at the same rate, so as not to favor certain economic activities over any others, i.e. income from investment would be taxed at the same rate as income from wages).

\(^{21}\) Sanchez, supra note 17, at 24; see also Büchi, supra note 14, at 81-82. The recession (1982-1984) further contracted GDP by approximately 12-14 percent. Id.

\(^{22}\) Javier Santiso, Latin America’s Political Economy of the Possible: Beyond Good Revolutionaries and Free-Marketeers, 112 (MIT Press, 2007).

\(^{23}\) Santiso, supra note 22, at 112; see also Becker, supra note 13.

\(^{24}\) Sanchez, supra note 17, at 23.
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and CIT, and, the creation of the Taxable Profits Fund (“FUT”), a tax exemption distinguishing between how reinvested and distributed income would be taxed.\textsuperscript{25} These modifications, along with the creation of the VAT in the 1974 tax reform, provide the basis for the Chilean tax system, and play a major role in the 2014 Tax Reform.\textsuperscript{26}

Chile experienced a dramatic, countrywide shift in 1988 with the ousting of the Pinochet government.\textsuperscript{27} With the subsequent tax reform in 1990, Chile began to move away from the laissez-faire economics and neo-liberalism policies of the 1970s-80s, towards a more progressive tax system.\textsuperscript{28} This progress has been achieved gradually through marginal tax increases, using a multitude of strategies in coordination with favorable political timing.\textsuperscript{29} One element that has worked in the favor of tax reform since 1990 is the Chilean constitutional grant of exclusive authority in the executive branch to initiate tax reform and policy changes.\textsuperscript{30} Despite this unilateral authority, the executive branch does not have independent power to implement their tax reform, instead requiring a vote in both the upper and lower houses of the legislature to become law.\textsuperscript{31} However, the legislature does not have the authority to amend the tax proposal, but can only vote to approve or to deny the proposal’s measures.\textsuperscript{32} To ensure that the reform has sufficient support, the executive branch consults with individuals, businesses and legislators alike to create reform initiatives that realistically can be enacted.\textsuperscript{33}

During the 1990 tax reform, the VAT was lowered from 20 percent to 18 percent and remained that way until 2003, when it was again raised, this time to 19 percent.\textsuperscript{34} In response to the massive cuts in public spending during the Pinochet regime, which depleted the pension and education systems, Chile again implemented tax reforms in 1995.\textsuperscript{35} Then-President Frei announced that the government would increase taxes on gasoline and cigarettes to fund a 10 percent readjustment in the pension fund and a 5 percent increase in school subsidies.\textsuperscript{36} Another tax reform in 2001 increased the corporate tax rate from 15 percent to 17 percent, while concurrently reducing the top two personal income tax brackets

\begin{itemize}
  \item \textsuperscript{26} Sanchez, \textit{supra} note 17, at 23.
  \item \textsuperscript{27} Fairfield, \textit{supra} note 10, at 3.
  \item \textsuperscript{28} \textit{Id.} (explaining a progressive tax system is based on the ability to pay, wherefrom high-income groups are taxed at a higher percentage than low-income groups).
  \item \textsuperscript{29} Fairfield, \textit{supra} note 10, at 3 (explaining that there has been significant pushback from businesses regarding tax reform. This arises primarily through the use of political parties (Unión Demócrata Independiente, UDI, and Renovación, RN) who still have some ties to the Pinochet government).
  \item \textsuperscript{30} \textit{Id.} at 5.
  \item \textsuperscript{31} Fairfield, \textit{supra} note 10, at 3.
  \item \textsuperscript{32} \textit{Id.}
  \item \textsuperscript{33} \textit{Id.} (explaining that if there is significant pushback at this stage, even if the reform will still pass, those options are generally discarded).
  \item \textsuperscript{34} \textit{Id.}
  \item \textsuperscript{35} Sanchez, \textit{supra} note 17, at 50.
  \item \textsuperscript{36} \textit{Id.}
\end{itemize}
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from 45 and 35 percent to 40 and 32 percent respectively.37 Finally, in 2010, another tax reform again increased the corporate tax rate.38 This reform increased the corporate tax rate to 20 percent, however, this was only temporary due to a confluence of circumstances (a devastating earthquake attributed as the primary reason), and the tax rate was once again at 17 percent by 2013.39

B. The 2014 Chilean Tax Reform

As Chile has slowly built its tax system since 1990, it has yet to implement a substantial change to its tax code at one time.40 However, this part-and-parcel method of reform became obsolete in the 2013 elections, when President Michelle Bachelet was reelected after having previously served from 2006-2010.41 President Bachelet’s Chilean Socialist Party also gained a majority of both houses of legislature in this election.42 This provided President Bachelet with an opportunity to make extensive changes to the current tax code, specifically responding to the 2011 and 2012 student protests and the large income equity gap pervading the country.43

Since 1990, the national poverty level in Chile has fallen from 39 percent to 14.4 percent in 2013.44 Despite these reductions, the top 10 percent of the populace is responsible for 41.5 percent of the income share, and the top one percent is estimated at 22 to 24 percent of that amount.45 Furthermore, compared to other Organisation for Economic Co-operation and Development (“OECD”) countries, Chile still has one of the highest percentages (15.9 percent) of the population living below 50 percent of median income.46 This massive income gap led Chile to have the highest level of inequality of OECD countries according to the Gini Index.47 Finally, an IMF Report determined that under the 2013 tax structure, with the primary tax method being consumption-based indirect

37 Fairfield, supra note 10, at 12.
38 Id. at 15.
39 Id.
40 Fairfield, supra note 10, at 12.
41 Pascale Bonnefoy, Former President of Chile Poised to Regain Her Seat, N.Y. TIMES (NOV. 17, 2013), http://www.nytimes.com/2013/11/18/world/americas/chile-election.html?_r=0 (explaining that the Chilean constitution does not allow a president to serve two consecutive terms).
43 Id.; see also Fairfield, supra note 10, at 1.
44 Ture, supra note 2, at 9-10.
46 Ture, supra note 2, at 10.
47 Id. The Gini Index (also referred to as Gini Coefficient) is a measure as to the extent which the income distribution of a nation is away from a perfectly equal distribution. Id.
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taxes (i.e. VAT and excise taxes\textsuperscript{48}), the top 10 percent of income-earners actually had a lower tax incident than the lowest 10 percent.\textsuperscript{49}

In response, on August 9, 2014, the Bachelet-led Chilean executive branch submitted to the legislature the 235-page tax reform bill.\textsuperscript{50} This bill was initially approved on September 10, 2014 by both houses of the legislature.\textsuperscript{51} The primary goals of the reform included: the collection of additional annual revenue yield of 3 percent of current GDP, the establishment of a more equitable tax system (through the elimination of structural deficiencies), new incentives for investments and savings (primarily for individuals), the reduction of tax evasion and avoidance, and to close the income gap and finance a widespread education reform (looking to provide more equal access).\textsuperscript{52}

Its terms will be implemented incrementally, with the full scope of the reform being applicable by 2018.\textsuperscript{53} It is significant for tax administration purposes that these social changes and their associated costs are matched to the projected revenue yields this tax reform will provide.\textsuperscript{54} One element that will not change in Chile’s tax structure is the full integration between the CIT and the PIT.\textsuperscript{55} Even without any changes to full integration, the weighty modifications on income taxes, including the provision closing the gap between the CIT and the PIT, supports the equity goals of the overall reform.\textsuperscript{56}

In terms of closing the gap between the CIT and the PIT, the tax reform decreases the top personal income tax rate from 40 percent to 35 percent.\textsuperscript{57} This is coupled with a general increase in the corporate tax rate from 20 percent to 25 or 27 percent, depending on type of business and the company’s tax system elec-

\textsuperscript{48} Excise Taxes, IRS (Oct. 10, 2015), https://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Excise-Tax (explaining that excise taxes are those that are paid when a specific good is purchased, i.e. gasoline or cigarettes).

\textsuperscript{49} Ture, supra note 2, at 11. The tax incident is the tax payment as a fraction of disposable income. Id.

\textsuperscript{50} Scherzer, supra note 7, at 1.


\textsuperscript{52} Rodriguez-Delgado, supra note 4, at 31. The government estimated 0.8 percent attributable to new personal tax accrued, 0.59 percent to corporate tax increases, and 0.52 percent to reduction in evasion and avoidance; the remaining 1.09 percent is made up of green, real-estate, stamp, alcohol and sugary drinks, and other tax changes. Id.

\textsuperscript{53} Rodriguez-Delgado, supra note 4, at 32; see also Scherzer, supra note 7, at 2.

\textsuperscript{54} Rodriguez-Delgado, supra note 4, at 32; see also Charles Kramer & Tamim Bayoumi, Chile: 2014 Article IV Consultation – Staff Report; Press Release; And Statement By The Executive Director For Chile, 19-20, (International Monetary Fund, July 2014).

\textsuperscript{55} Rodriguez-Delgado, supra note 4, at 32 (explaining that they still interact with one another for each individual taxpayer, arriving at one tax rate and tax liability, even though both rates were changed in the 2014 Reform).

\textsuperscript{56} Rodriguez-Delgado, supra note 4, at 32.

\textsuperscript{57} Id. at 31; see also Rosende, supra note 6, at 61.
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tion. The tax reform also looks to prevent the avoidance of tax through a variety of methods, specifically: deductibility of financing expenses, thin capitalization rules, controlled foreign company (“CFC”) rules, limits on payments to foreign related parties, and general anti-avoidance rule (“GAAR”).

III. Discussion

A. Initial Domestic and International Feedback

More than a year after the tax bill was initially approved, the 2014 Tax Reform and President Bachelet’s approval, have faltered substantially. A portion of the tribulations inhibiting economic advance is attributable to the economic slowdown in China and its effect on the Chilean copper export. Conversely, some have attributed this economic downturn to the election of Bachelet and her tax reform policies. This line of reasoning cites an increase in the unemployment rate and a decrease in manufacturing production from the end of 2013 and the beginning of 2014. Additionally, the tax reform that was passed with such promise is now back before the legislature awaiting additional amendments, making the implementation process, unlikely to begin in 2016.

An area of substantial, ongoing debate is the effect the 2014 Tax Reform will have on savings, investment, and growth, both for businesses and individuals. This debate was set in motion as far back as 1975, because of how Chile initially organized its tax code, focusing on consumption (VAT and excise taxes) rather than income taxes (CIT and PIT). This left the current government with few options of how to implement a more progressive tax regime without modifying income taxes. By effectuating a progressive reform which increases the CIT, decreases the PIT, and closes tax loopholes (or exemptions/deductions/credits

59 Scherzer, supra note 7, at 3-4; see also Ernst & Young Americas Tax Center, Chile Enacts Tax Reform, 3-4 (Oct. 10, 2014).
60 Brianna Lee, Chile’s President Michelle Bachelet Approval Sinks Over Economic Malaise, Corruption And Stalled Reforms, IBT (Sept. 16, 2015) http://www.ibtimes.com/chiles-president-michelle-bachelet-approval-sinks-over-economic-malaise-corruption-2098204 (explaining that according to an opinion by Chilean Plaza Publica Cadem, President Bachelet’s approval rating stood at 20 percent as of September 2015. Another poll, this one conducted by GfK Adimark reported an approval rating of 24 percent in December 2015).
63 O’Brien, supra note 61.
64 Lee, supra note 60.
65 Rosende, supra note 6, at 32-33; see also Benedikter, supra note 3, at 119.
66 Rodriguez-Delgado, supra note 4, at 28-29; see also Fairfield, supra note 10, at 3-4.
67 Rodriguez-Delgado, supra note 4, at 28-29; see also Fairfield, supra note 10, at 3-4.
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depending on your point-of-view), the Chilean government is attempting to address equity at the potential expense of efficiency.68

Conducting their own analysis of the tax reform, the IMF concluded that based on the large gap in Chile’s income distribution, the emphasis on income taxes, particularly reducing the gap between the CIT and the PIT, is an appropriate resolution.69 Moreover, the IMF stated that this contraction, as well as the elimination of opportunities for tax evasion and/or avoidance, primarily used by the top-income earners (the FUT), will increase equality.70 Even with these changes, Chile will still be below (but closer to) the regional average CIT rate, bringing it more in line with recent global economic changes.71

B. The Dual Tax Method

Part of this progressive reform to the Chilean tax system is a move to a dual-tax method system, again with the plan of starting in 2017.72 Prior to passing the reform, the Chilean tax code provided that a company or enterprise in Chile is subject to a 20 percent First Category Income Tax (“FCIT”).73 Those earnings are subject to income tax on a cash basis when they are distributed to shareholders.74 The tax rate at that point is determined based upon that shareholders status as a resident or nonresident.75 The reform outlines that shareholders must opt for either an Attributed Income system using the accrual method or the Semi-Integrated system, if the taxpayer elects to use the cash basis method.76

Under the Attributed Income system, profits would be attributed to shareholders when they are available to the individual taxpayer regardless of whether any physical distribution is made.77 Using this system, the FCIT is now imposed at 25 percent on those earnings.78 In addition, residents of Chile are subject to any


69 Rodriguez-Delgado, supra note 4, at 32.

70 Rodriguez-Delgado, supra note 4, at 33.

71 Rodriguez-Delgado, supra note 4, at 29; see also Luigi Bernardi ET AL., Tax Systems and Tax Reforms in Latin America, 55 (Routledge, 2008).

72 Scherzer, supra note 7, at 1-2; see also Maturana, supra note 58. The integration system refers to how the PIT and the CIT interact, whereas the dual-tax system being implemented determines when revenue and expenses are to be attributed. Id.

73 Scherzer, supra note 7, at 1-2; see also Service de Impuestos Internos (“SII”), Information for Foreign Investors, 1, http://www.sii.cl/pagina/actualizada/noticias/2014/160114noti01ae_anexo1.pdf (last visited Jan. 9, 2016).

74 Scherzer, supra note 7, at 1.

75 Scherzer, supra note 7, at 1; see also SII, supra note 73, at 2.

76 Benítez, supra note 1, at 1; see also Scherzer, supra note 7, at 1-2 (explaining that the accrual method of accounting determines revenues and expenses as being received when the taxpayer has the right to them, whereas the cash method is only upon receipt (for revenue) or when paid (for expenses)).

77 Scherzer, supra note 7, at 1; see also Ernst & Young Americas Tax Center, supra note 59, at 2.

78 Benítez, supra note 1, at 1; see also Ernst & Young Americas Tax Center, supra note 59, at 2.
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global complementary tax at progressive rates.⁷⁹ For nonresident shareholders, they must pay an additional withholding income tax ("AWIT") of 35 percent, with the FCIT being 100 percent creditable for these shareholders.⁸⁰ This leaves nonresidents with a tax charge of 35 percent, regardless of distribution or non-distribution by the enterprise.⁸¹

In contrast, by using the Semi-Integrated system, the shareholder is taxed when the profits are distributed to them, commonly called the cash basis method of accounting.⁸² Under the Semi-Integrated system, the shareholder is taxed at a FCIT rate of 25.5 percent for 2017, increasing to 27 percent for 2018 and beyond.⁸³ The AWIT would still be credited for the FCIT, however, 35 percent of the FCIT liability would have to still be paid (as opposed to zero percent under the Attributable Income system), thereby leaving 65 percent as the maximum amount creditable against the AWIT.⁸⁴ Therefore, the primary benefit derived from using the Semi-Integrated system is that the shareholder/taxpayer would defer their taxation until profits are distributed; however, they would potentially face a higher overall income tax rate at this time then under the Attributed Income system.⁸⁵

Another step in implementing this new tax code will be the company electing which of the two tax systems, either Attributed or Semi-Integrated, to apply to its accounting procedures.⁸⁶ The choice of the system to use differs based on the type of entity, as a limited liability corporation and companies divisible by shares require a unanimous decision whereas stock corporations require two-thirds of voting stock.⁸⁷ New entities must determine at the time of their formation and registration which method they will choose and notify the Chilean tax authorities as such.⁸⁸ If an existing entity wants to change systems, they must inform the authorities during the last three months preceding the year in which they intend

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⁷⁹ Scherzer, supra note 7, at 1; see also Ernst & Young Americas Tax Center, supra note 59, at 2 (explaining that the global complementary tax is applied at a rate of 0-40 percent, depending on income bracket, to those who receive additional income apart from employment income, have been granted a tax benefit, or if they are entitled to a tax refund).

⁸⁰ Scherzer, supra note 7, at 1-2; see also Ernst & Young Americas Tax Center, supra note 59, at 2-3 (stating that a tax credit is an incentive which directly reduces the tax bill (whereas a deduction reduces the tax base, therefore, for example, the taxpayer determines what their tax liability is then subtracts the tax credit from that amount)).

⁸¹ Scherzer, supra note 7, at 2; see also Ernst & Young Americas Tax Center, supra note 59, at 2.

⁸² Scherzer, supra note 7, at 2; see also Ernst & Young Americas Tax Center, supra note 59, at 2-3.

⁸³ Benítez, supra note 1, at 1; see also Scherzer, supra note 7, at 2.

⁸⁴ Scherzer, supra note 7, at 2; see also Ernst & Young Americas Tax Center, supra note 59, at 2.

⁸⁵ Scherzer, supra note 7, at 1-2.

⁸⁶ Ernst & Young Americas Tax Center, supra note 59, at 2; see also Scherzer, supra note 7, at 2 (explaining that the reform does outline the default regime that each different type of business will fall into if they fail to make an election).

⁸⁷ Scherzer, supra note 7, at 2.

⁸⁸ Id.
to implement the new system. Finally, that switching entity is then required to remain under their newly-elected system for at least five years.

C. The Elimination of the FUT

As previously mentioned, another one of the biggest changes in the 2014 Tax Reform is the elimination of the FUT, described as either a tax loophole or distributed income reinvestment method. The FUT was an advantageous part of the Chilean tax code providing companies with a tax exemption on reinvested profits. For example, shareholders, once corporate taxes are paid on the businesses profits (FCIT), could allocate their portion of the distributed profits to a FUT. These earnings do not need to be reinvested in the company which distributed them, rather they may be invested in approved FUT investments. At that point the taxpayer is no longer liable to pay individual income tax on those profits until they elect to withdraw them from the FUT.

D. Potential Impacts to SMEs

The 2014 Tax Reform also contains substantial provisions specifically related to small and medium-sized enterprises ("SMEs"). Medium-sized companies (sales up to approximately $4,178,000 USD) would be able to deduct a percentage of their reinvested, undistributed profits. Under the Attributed Income system that deductible percentage is limited to 20 percent of these earnings, whereas that ceiling rises to 50 percent under the Semi-Integrated system. Regardless of the tax system, the deduction allowable to the enterprise is capped at approximately $166,000 USD. Furthermore, the taxpayer’s income derived from participation in other companies, securities, and a variety of other sources may not exceed 20 percent of gross income to be eligible for the deduction.

In reference to small businesses (up to approximately $2,090,000 USD), these enterprises may elect to take part in a special tax system exempting themselves

89 Id.
90 Scherzer, supra note 7, at 2; see also Ernst & Young Americas Tax Center, supra note 59, at 2.
91 Benítez, supra note 1, at 2 (explaining that the FUT was a special ledger that was required to keep track of retained profits and the corresponding tax credit); see also Benedikter, supra note 3, at 145.
92 Benedikter, supra note 3, at 143; see also Scherzer, supra note 7, at 5 (explaining that a tax exemption, as opposed to a tax credit or a deduction, involves income or investment where tax is generally levied but thanks to a statutory exception, this particular type of activity is not taxed).
93 Rosende, supra note 6, at 58.
94 Rosende, supra note 6, at 58.
95 Id. The FUT does not mean that they must reinvest the profits back in the distributing company, rather an investor may put the distributions into special FUT funds to gain the same benefit so long as it was less than 20 days after profits were distributed. Id.
96 Scherzer, supra note 7, at 5.
97 Id.
98 Id.
99 Id.
100 Id.
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from carrying full accounting books. Additionally, these small enterprises would only be liable for taxes on their cash flows for that taxable year. Furthermore, for entities that are owned exclusively by individuals, they may elect to be exempt from the FCIT. Those who make the election will only be subject to the PIT on those amounts which they withdraw from the enterprise.

Two more provisions that may have a substantial impact on SMEs are the reduction in the maximum sales thresholds for different business types, and the allowance of an immediate depreciation for fixed assets. First, regarding the sales threshold, this drastic reduction will potentially bring many more enterprises into the taxable population base. Additionally, the immediate depreciation provision applies to taxpayers at all earnings levels, but it holds considerable weight to SMEs due to its ability allowing them to expand their physical capital assets at a rate and in a manner not previously achievable. Unfortunately for these businesses, this provision has been eliminated in the revised reform and is unlikely to be resurrected in the current amendment negotiations.

IV. Analysis

A. The Connection of the CIT and the PIT

There are three main provisions in the tax reform that require further analysis, first, the PIT-CIT changes and what they mean for investment, growth and savings, second, the repeal of the FUT and its consequences, and third, particularly how this repeal will affect SMEs and what this could mean for growth and investment in Chile. As this new tax regime does not borrow upon international experience in its provisions, it is difficult to determine, without any data and before implementation, if it has been a failure or success. That being said, there is historical data regarding the increase in corporate tax rates and how it affects investment and growth, as well as how closing loopholes and tax avoidance strategies affects equality and efficiency.

101 Id.
102 Id. (stating that in this instance cash flows simply meaning revenue received and expenses paid).
103 Scherzer, supra note 7, at 5.
104 Id.
105 Rodriguez-Delgado, supra note 4, at 32; see also Scherzer, supra note 7, at 5.
106 Scherzer, supra note 7, at 5 (explaining that the reductions include limits of $200,000 USD for transport business, $375,000 USD for agriculture, and $710,000 USD for mining).
107 Id. This provision is only available for the first 12 months following the enactment of the reform for large and medium-sized enterprises. There is not a similar cutoff date for small enterprises on their physical capital investments. Id.
108 Rodriguez-Delgado, supra note 4, at 33; see also Kramer, supra note 54, at 19.
109 Scherzer, supra note 7, at 6.
110 Rodriguez-Delgado, supra note 4, at 31.
112 Rodriguez-Delgado, supra note 4, at 27; see also Benedikter, supra note 3, at 143.
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Turning first to the CIT increase coupled with the PIT decrease, it needs to be determined what their impact on investments and growth will be, as they are both subject to a great deal of scrutiny. On the one hand, the decrease in the PIT alongside the elimination of the FUT may lead to increased investment in sectors and outside enterprises not previously a part of that allocation system. Alternatively, the increase in the CIT could lead to a decline in investment and growth as companies will now have a higher tax burden. This increased burden, coupled with the elimination of the FUT and its ability to reinvest working capital cheaply, could lead to increased leverage and decreased liquidity for businesses.

Comparably, according to recent OECD and IMF studies, income taxes and social contributions (notably two of the main provisions of this tax reform) have the most adverse effects on investment and growth. These studies also indicate that corporate taxes discourage capital accumulation and productivity improvement. As the 2014 Tax Reform increases the CIT rate, companies will now face an increased tax burden, thereby inhibiting their potential level of capital accumulation. The Chilean government refutes this argument pointing to the education reform agenda as a sufficient counterbalance. They assert that any reduction in growth and investment will be stymied as the younger generation’s increased educational options will lead to long-term growth and equity. This goal is strengthened by the fact that the government has established a permanent connection between the tax income this reform is bringing in and the educational reform it is funding.

B. The Elimination of the FUT and How will that Effect SMEs

The most divergent area of opinion regarding the 2014 Tax Reform, however, is undoubtedly the repeal of the FUT. The FUT allows for an easy (or at least more economical) means of reinvestment for companies and shareholders, while offering a simultaneous source of working capital of those undistributed profits. On the other hand, the FUT has been labeled a system of tax evasion almost exclusively for the top-income earners, costing the government in terms

113 Rodriguez-Delgado, supra note 4, at 32-33; see also Kramer, supra note 54, at 17.
114 Rodriguez-Delgado, supra note 4, at 33.
115 Id.; see also Rosende, supra note 6, at 61.
116 Rodriguez-Delgado, supra note 4, at 33; see also Rosende, supra note 6, at 61 (explaining that companies may now be forced to carry increased debt burdens and therefore have decreased liquidity due to that increase).
117 Rodriguez-Delgado, supra note 4, at 27.
118 Id.; see also Rosende, supra note 6, at 61.
119 Rodriguez-Delgado, supra note 4, at 27; see also Rosende, supra note 6, at 61.
120 Kramer, supra note 54, at 17.
121 Id.
122 Benedikter, supra note 3, at 143; see also Rodriguez-Delgado, supra note 4, at 34.
123 Benedikter, supra note 3, at 150; see also Rosende, supra note 6, at 58.
124 Rosende, supra note 6, at 58.
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of lost tax revenues and increased administration costs.\textsuperscript{125} This tax exemption was of particular importance to SMEs who were able to avoid financing their activities and growth with debt, instead continuing to grow through direct reinvestment.\textsuperscript{126} The FUT has been a fundamental part of the Chilean financial system since its inception, and it has undoubtedly helped growth and investment within the country.\textsuperscript{127} In fact, it is estimated that at the end of 2013, resources in all of the FUTs totaled $250 billion, an amount on par with Chile’s GDP and its total savings.\textsuperscript{128}

The Record of Profits will replace the FUT, and will differ depending on which of the new tax methods (either Attributed Income or Semi-Integrated system) the taxpayer has chosen.\textsuperscript{129} By eliminating the FUT, these earnings will be taxed when distributed (regardless of whether they are reinvested), thereby creating additional present revenue for the government with an eye towards simultaneously eliminating and/or reducing tax avoidance and evasion.\textsuperscript{130} President Bachelet recently stated that since the FUTs inception, the government has lost potential tax revenue of approximately $50 million.\textsuperscript{131} Moreover, the government states that the closing of the FUT along with the concurrent upgrade to infrastructure will incentivize innovation, consequently aiding growth and investment rather than inhibiting it.\textsuperscript{132} However, Rodrigo Vergara Montes (the current President of the Chile’s Central Bank), recently stated, while discussing the tax reform and the FUT, that the reform financed “permanent outcomes” (i.e. increasing education funding) “through permanent incomes” (i.e. the increase to CIT).\textsuperscript{133} The FUT, therefore, was unnecessarily eliminated and the effects its removal could have on Chilean macroeconomic factors in the future will need to be closely monitored.\textsuperscript{134}

As discussed previously, in terms of the increase in the CIT, income taxes have been found to have a negative correlation with investment and growth.\textsuperscript{135} The eradication of the FUT is not a direct income tax increase like the CIT rate increase.\textsuperscript{136} However, by eliminating the FUT as a reinvestment tool and subsequently taxing shareholders on the amount they would have reinvested the gov-

\textsuperscript{125} Kramer, supra note 54, at 17; see also Rosende, supra note 6, at 58.

\textsuperscript{126} Rosende, supra note 6, at 61.

\textsuperscript{127} Id. at 58; see also Benedikter, supra note 3, at 143 (explaining how the FUT helps growth and investment and posing the question “Is the FUT the Factual Basis for the Chilean Miracle?”).

\textsuperscript{128} Rosende, supra note 6, at 58.

\textsuperscript{129} Benitez, supra note 1, at 2.

\textsuperscript{130} Rosende, supra note 6, at 58-59; see also Kramer, supra note 54, at 17.

\textsuperscript{131} Benedikter, supra note 3, at 143; see also The Economist, Reform in Chile: The Lady’s for Turning, supra note 62.

\textsuperscript{132} Rosende, supra note 6, at 62.

\textsuperscript{133} Benedikter, supra note 3, at 147.

\textsuperscript{134} Id. at 143; see also Rosende, supra note 6, at 59.

\textsuperscript{135} Rodriguez-Delgado, supra note 4, at 27-28.

\textsuperscript{136} Rosende, supra note 6, at 59.
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erment is increasing the tax burden those investors face. In fact, as the maximum individual tax rate (for the top two tax brackets) will be 35 percent, it is reasonable to conclude that the maximum tax rate applicable to an investor would total up to 44.4 percent.

Additionally, the elimination of the FUT will be disproportionately burdensome on SMEs as they are losing a major source of cheap, unleveraged working capital vital to expanding their enterprises. The FUT is a simple exemption that allowed these SMEs and their shareholders to grow with reinvested working capital as opposed to costly external debt financing. This advantage strikes a bold contrast with other developed and emerging economies and can reasonably be concluded to be a significant part of Chilean financial growth since its integration. In fact, in 2004, Rodrigo Vergara Montes suggested that “macroeconomic evidence for the period of 1975-2003 in Chile indicates that the tax [law] explains an increase in private investment.” Furthermore, larger enterprises will be able to compensate for this loss of working capital by increasing their debt burden and becoming more leveraged with only muted side effects, whereas SMEs will not be able to enjoy the same luxury of cheap debt financing.

Joining in the chorus of dissents regarding the tax reform and especially the repeal of the FUT is the conservative group Centro de Estudios Públicos (“CEP”) led by their new director, Harald Beyer, who is closely tied to the “Chicago Boys.” In response to the reform, Beyer wrote that the higher tax burden will only reduce the Gini coefficient by around 0.014 (or 1.4 percent) and almost exclusively affect the top 5 percent of income earners. The CEP paper also outlines how, by their most recent estimates, the CIT increase and the elimination of the FUT will reduce the GDP by about 4.5 percent in the near term, inhibiting growth, investment, and savings. However, as the FUT was a tax law and reinvestment strategy wholly unique unto itself, it is difficult to determine what effects its elimination will have at this time, but the projections of how it will affect investment and growth are worrisome at best. Finally, the former Prin-

137 Id. at 59-61; see also Benedikter, supra note 3, at 145.
138 Rosende, supra note 6, at 59; see also Ernst & Young Americas Tax Center, supra note 59, at 2.
139 Benedikter, supra note 3, at 145, 150; see also Rosende, supra note 6, at 59, 61.
140 Rosende, supra note 6, at 58.
141 Id. at 58-59.
142 Rodrigo Vergara Montes, PUC Economics Institute Working Paper No. 268: Taxation and Private Investment: Evidence for Chile, in INSTITUTO DE ECONOMÍA, FOTPIA UCANTO DCATOLICA DE CHILE (PUC), 14, 14-15 (June 2004); see also Benedikter, supra note 3, at 144.
143 R. Montes, supra note 142, at 14-15; see also Benedikter, supra note 3, at 143.
144 Benedikter, supra note 3, at 147 (stating that Harald Beyer was the Minister of Education during the Piñera administration (2010-2014)).
145 Id. The Gini coefficient is based on a scale of 0-1 (indicating percentages), where a Gini coefficient of 1 represents maximum inequality. Id.
146 Id. at 148.
147 Id. at 147.
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principal Regional Adviser of UNELAC/CEPAL,148 Ricardo Ffrench-Davis identified the issue as: “We are right in the middle of a discussion among the deaf. Some argue that the reform could affect primarily the small and medium-sized companies. Others claim exactly the opposite. There are opposite poles of the debate [on every detail].”149

Only furthering the debate is the fact that former Chilean Ministers of Finance have vastly different positions when it comes to eliminating the FUT.150 Former Minister of Finance, Eduardo Aninat151 stated that the elimination of the FUT, even if accomplished through a gradual elimination (i.e. over three to four years), is at the very least an imprudent reformation policy.152 Aninat goes on to state that the government ignores that investment is a “dynamic variable” that is “characterized by risk.”153 Therefore, the tax reform provides substantial risk for investment and growth to Chile and is coming at an inopportune time for Chilean enterprises and investors.154 Furthermore, the elimination of the FUT would put a particular strain on Chile’s Internal Revenue Service (“SH”) as they would need to collect detailed information regarding company structure, which could be particularly complicated for larger enterprises, rather than focusing on the application of new CIT and PIT rates.155

Additionally, the former Minister of Finance during President Bachelet’s first term, Andrés Velasco156 stated that elimination of the FUT involved “risks” and could ultimately have adverse effects on the middle class.157 Velasco continued, reasoning that “the tax reform could lead to a threefold decrease of investment, growth, and job creation, and thus ultimately on savings.”158 Velasco’s address of the FUT and the negative effect its elimination will have on the middle-class could also be viewed as an opinion regarding SMEs.159 These enterprises will most likely experience the greatest impact to profitability, investment, and

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149 Benedikter, supra note 3, at 147.
150 Benedikter, supra note 3, at 149-150.
152 Benedikter, supra note 3, at 150; see also Aninat por Reforma Tributaria: “¿Que hierba está fumando?”, ECONOMÍA TERRA CHILE (Roland Benedikter & Katja Siepmann eds. trans., April 27, 2014) (explaining that under the current specific circumstances, i.e. recession in Latin America, falling commodity prices, and economic slowdown in China, eliminating the FUT in unnecessary).
153 Benedikter, supra note 3, at 150; see also Economía Terra Chile, supra note 152.
154 Benedikter, supra note 3, at 150; see also Rosende, supra note 6, at 61-62.
155 Rodriguez-Delgado, supra note 4, at 33.
156 ANDRES VELASCO. https://sipa.columbia.edu/faculty/andr-s-velasco (last visited March 18, 2016) Minister of Finance from 2006-2010 (President Bachelet’s first term). Id.
157 Benedikter, supra note 3, at 150; see also Cooperativa Chile: Andrés Velasco: La reforma tributaria puede tocar el bolsillo de la class media. (Roland Benedikter & Katja Siepmann eds. trans., May 5, 2014).
158 Benedikter, supra note 3, at 150; see also Cooperativa Chile: Andrés Velasco, supra note 157.
159 Benedikter, supra note 3, at 150.
growth, and this in turn will affect the amount of revenue the government generates from these entities; it is only a matter of time until we see how adversely the repeal affects both sides of the equation.\textsuperscript{160} Even savings decisions will be detrimentally affected as a tremendous long-term savings tool for investors and business-owners is being eradicated, limiting savings opportunities and potential returns for individuals.\textsuperscript{161}

Contrasting this point-of-view, former Minister of Finance, Alejandro Foxley,\textsuperscript{162} in support of eliminating the FUT, stated that the FUT has been a significant source of tax evasion.\textsuperscript{163} He propositions that because of the abuses the FUT enables, it is the government’s responsibility to eliminate the FUT.\textsuperscript{164} This assertion is bolstered by the ongoing investigation (called Pentagate) into the Penta Group for passing along illegal payments to current and former officials, prior to and after elections.\textsuperscript{165} The FUT was established as the first link when Chile’s SII received an anonymous letter requesting an investigation of an SII official, spurring a new scandal, subsequently named FUT-Gate.\textsuperscript{166} SII discovered that the employee made illicit changes in 2007 to previous tax declarations thus causing SII to return greater amounts to certain taxpayers then they were rightfully due.\textsuperscript{167} It is instances like this that help provide the basis behind the FUT being eliminated.\textsuperscript{168}

Therefore, the arguments surrounding the increase in the CIT, decease in the PIT, the elimination of the FUT and how all of these changes particularly affect SMEs have a myriad of conflicting viewpoints and statistics to cite.\textsuperscript{169} Unfortunately, Chile faces unique challenges exclusively within its borders (i.e. OECD-leading inequality and being China’s largest provider of copper to name a few) in conjunction with the 2014 Tax Reform being largely incomparable to any other reforms on an international scale.\textsuperscript{170} Even among three former Ministers of Finance, there are significant variations in each opinion as to the short, middle and long-term perspectives of the tax reform.\textsuperscript{171} If the reform is in fact passed by the

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\textsuperscript{160} Rosende, supra note 6, at 61-62.

\textsuperscript{161} Rosende, supra note 6, at 61.

\textsuperscript{162} ALEJANDRO FOXLEY, http://carnegieendowment.org/experts/index.cfm?f=a=expert_view&expert_id=4488&prog=zgp&proj-zie (last visited March 18, 2016) (explaining that Foxley was a former Minister of Finance from 1990-1994 under the government of Patricio Aylwin. Foxley is currently the president of the influential think tank (based in Santiago) Corporación de Estudios para Latinoamérica (CIEPLAN)).

\textsuperscript{163} Benedikter, supra note 3, at 150; see also Foxley propone que reforma incentive compra de viviendas para la clase media, EMOL (Roland Benedikter & Katja Siepmann eds. trans. May 17, 2014).

\textsuperscript{164} Benedikter, supra note 3, at 150.

\textsuperscript{165} Adriana Peralta, Chile’s Penta Case Pulls Dozens into Corruption Scandal, PANAM POST (January 16, 2015) (explaining that this investigation includes former President Piñera and Andrés Velasco, along with current deputies, and other former presidential candidates).

\textsuperscript{166} Id.

\textsuperscript{167} Id.

\textsuperscript{168} Benedikter, supra note 3, at 150; see also Peralta, supra note 165.

\textsuperscript{169} Benedikter, supra note 3, at 143, 146-150; see also Rosende, supra note 6, at 58-62.

\textsuperscript{170} Ture, supra note 2, at 10; see also Rodríguez-Delgado, supra note 4, at 34.

\textsuperscript{171} Benedikter, supra note 3, at 150.
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legislature, following the most recent round of amendments, it is uncertain what these reforms mean for Chile, but until that point, speculation will continue to pervade the conversation.\textsuperscript{172}

V. Proposal

Therefore, based on the analysis above it seems apparent that something needs to be changed in the 2014 Tax Reform to lessen the effect it has on SMEs, and keep portions of the FUT functional.\textsuperscript{173} There are three basic options when it comes to the FUT: (1) Eliminate the FUT in-line with the current tax reform, (2) Keep the FUT as it currently exists, or (3) Amend the FUT by addressing tax evasion issues but keeping reinvestment provisions.\textsuperscript{174} In terms of the increase in the CIT and its adverse effect on investment and growth, these provisions are most likely a necessary measure to reduce the rampant inequality in Chile.\textsuperscript{175} It is important to note that Chile (pre-reform) has a lower CIT than the Latin American and OECD average, yet a higher PIT, and the reform is bringing Chile more in line with those averages.\textsuperscript{176} However, increasing the tax burden on enterprises and potentially their investors through the increase in the CIT rate, while also simultaneously eliminating the FUT in its entirety, is an undue burden on investors and SMEs.\textsuperscript{177} The FUT does need to be scaled back as the current investigation into Penta is only one indication of its potential misuse, however, it is too strong of an investment incentive and tool for entrepreneurs and innovators to be eliminated forthwith.\textsuperscript{178}

One possible solution would be to eliminate the use of designated FUT funds and rather require the distributed profits to be reinvested within the distributing enterprise to be eligible for the FUT deduction.\textsuperscript{179} This will be extremely useful, especially to SMEs as they will still be able to take full advantage of the FUT while simultaneously increasing their opportunity for working capital to be returned to them from any earnings they do distribute.\textsuperscript{180} By implementing this solution, SMEs and all companies in Chile will be able to maintain a comparatively light debt burden, instead relying on their unique ability to use reinvestment from shareholders to build their business.\textsuperscript{181} However, this solution does not fix the tax avoidance/evasion issue that the government was hoping to ad-

\begin{footnotesize}
\textsuperscript{172} Id. at 143, 146-150; see also Rosende, supra note 6, at 58-62.
\textsuperscript{173} Rodriguez-Delgado, supra note 4, at 34; see also Rosende, supra note 6, at 61-62.
\textsuperscript{174} Benedikter, supra note 3, at 146, 150.
\textsuperscript{175} Rodriguez-Delgado, supra note 4, at 33.
\textsuperscript{176} Rodriguez-Delgado, supra note 4, at 32.
\textsuperscript{177} Rosende, supra note 6, at 61; see also Benedikter, supra note 3, at 150.
\textsuperscript{178} Benedikter, supra note 3, at 150.
\textsuperscript{179} Rosende, supra note 6, at 61; see also Rodriguez-Kogan, Mauricio. Andrés Velasco: “Proponemos que los balances del FUT paguen interés, porque es un préstamo que hace el Fisco”, LA TERCERA (Feb. 2, 2013).
\textsuperscript{180} Rosende, supra note 6, at 58, 61.
\end{footnotesize}
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dress with the repeal of the FUT, as largely the same reinvestment and tax evasion opportunities would present themselves under this system.\(^{182}\)

Another solution, first suggested by Andrés Velasco in 2013, would include a ceiling on non-taxable income, make investment abroad taxable, and subject the amount held in the FUT fund to carry an interest rate equal to the Treasury rate.\(^ {183}\) Under the current FUT law, the company is able to take advantage of the reinvested funds at a zero percent rate on the “loaned” money and avoid taxation until withdrawal.\(^ {184}\) The estimated gain in GDP by implementing the Treasury rate upon FUT funds is 0.3 percent; roughly half of what the estimate gain due to total elimination of the FUT was determined to be.\(^ {185}\) Velasco further identifies that Chile has a low individual savings rate, even with the FUT bolstering this rate by providing shareholders a means of savings.\(^ {186}\) By uniformly abolishing the FUT in its entirety, the government is eradicating one of the few incentives for savings and incentive in Chile.\(^ {187}\) Therefore, the FUT should survive this tax reform, either by one of measures outlined above or in another way.\(^ {188}\) The FUT is too vital and unique of an investment tool for Chilean investors and enterprises to be eliminated completely.\(^ {189}\)

VI. Conclusion

While the 2014 Tax Reform is attempting to alleviate its OECD-leading income inequality gap, some of its provisions are misguided. The increase to the CIT and the decrease in the PIT are acceptable hindrances to efficiency in the name of equality, but need to be closely monitored to ensure they are not significantly adverse to investment and growth. However, the repeal of the FUT exemption in its entirety is too extreme as the FUT has been one of the leading reasons behind the level of investment and growth that Chile has experienced since 1984. By repealing the FUT completely, the Chilean government has placed an undue burden on SMEs as they are losing a significant source of working capital. As the FUT is an entirely unique tax exemption, it is very hard to predict how its repeal will affect the Chilean economy, but by cutting off a substantial source of cheap, reinvested capital, the repeal of the FUT will likely severely hinder Chilean enterprises, of all sizes.

Amendments could be made to the FUT, such as only allowing the distributed funds to be reinvested in the distributing company, or charging a very low rate of interest (Treasury rate) on those reinvested funds. Neither of these solutions,

\(^{182}\) Kramer, infra note 54, at 17, 19; see also Benedikter, supra note 3, at 150.

\(^{183}\) Rodriguez-Kogan, supra note 179 (explaining that the Treasury rate would be the lowest possible rate a taxpayer could receive. The Treasury rate is the equivalent interest rate that the government must pay when debt rises).

\(^{184}\) Rodriguez-Kogan, supra note 179.

\(^{185}\) Id.; see also Rodriguez-Delgado, supra note 4, at 31.

\(^{186}\) Rodriguez-Kogan, supra note 179.

\(^{187}\) Id.; see also Rosende, supra note 6, at 61-62.

\(^{188}\) Rosende, supra note 6, at 61-62; see also Rodriguez-Kogan, supra note 179.

\(^{189}\) Rosende, supra note 6, at 61-62; see also Rodriguez-Kogan, supra note 179.
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however, eliminate the opportunity for the FUT to be used for tax evasion purposes. The FUT is too important of an investment and growth tool to be amputated completely; rather it needs to be adjusted in order to function at a high investment level while simultaneously eradicating the tax avoidance and evasion it proliferates. Once this balance is achieved, Chile will be able to address its inequality issues without unduly hindering growth and investment.