

TRANSACTIONS WITH FINANCIAL INSTRUMENTS IN THE MINING SECTOR

September 2015

- **INCOME TAX LAW**
- **TAX CODE**
- **LAW N° 20780, OF 9/29/2014, ON TAX REFORM.**
 - General and specific anti-evasion rules.


- **LAW N° 20.544 (10/22/2011).**
 - Regulates tax treatment of derivative instruments.

Income derived from derivatives, including issue premiums, is considered income from a Chilean source when it is earned or accrued by taxpayers domiciled or resident in Chile.

- **MEASUREMENT OF RISK LEVELS OR TAX GAPS, NEW COMPREHENSIVE TAX COMPLIANCE MODEL**
 - Segment of interest (taxpayer group, economic sector, type of tax or behavior)
 - Differentiated treatment actions with an emphasis on taxpayers most likely to lapse into noncompliant behavior.
- **SPECIALIZED OVERSIGHT GROUPS**
 - Mining (Large Taxpayers Directorate)
 - Transfer prices (Large Taxpayers Directorate and National Directorate)

- **ANALYSIS OF INFORMATION CONTAINED IN (ELECTRONIC) SWORN STATEMENTS**
 - Monthly Sworn Statement on Derivatives Contracts (1820)
 - Annual Sworn Statement on derivatives contracts (1829)
 - Monthly Sworn Statement on derivatives contracts, reported by third parties (1839)
 - Annual Sworn Statement on transfer prices (1907)
 - Other sworn statements: Loans granted by banks and foreign financial institutions, balance of prices corresponding to goods brought into the country, excessive indebtedness due to credit operations, etc.

SWORN STATEMENT FORM 1829



[Identificar Nuevo Contribuyente](#) | [Cerrar Sesión](#)

🏠 Mi Sii
Registro de Contribuyentes
Impuestos Mensuales
Factura Electrónica
Boleta de Honorarios
Renta
Declaraciones Juradas
Bienes Raíces
Situación Tributaria
Tasación de Vehículos
Libros Contables
Infracciones y Condonaciones

Declaración Jurada 1829 Anual Sobre Contratos De Derivados

A. IDENTIFICACION DEL DECLARANTE

Rol Único Tributario	Apellido Paterno o Razón Social	Apellido Materno	Nombres	Correo Electrónico	Periodo
					2015

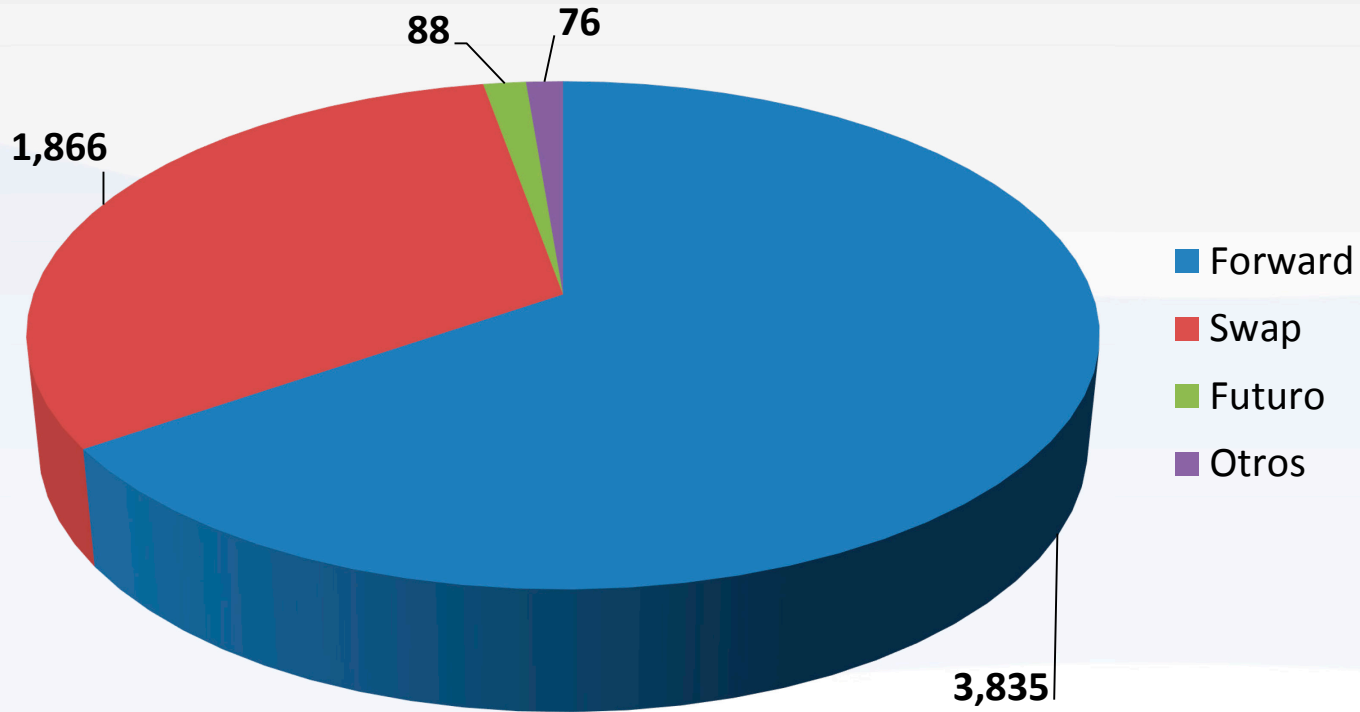
CUADRO RESUMEN FINAL DE LA DECLARACION

Total Resultado del Ejercicio	Total Efecto en Patrimonio	Total de datos Informados

B: DATOS DE LOS CONTRATOS INFORMADOS

Nº	Rut Contraparte	Tax-ID de la Contraparte	Código Pais Contraparte	Tipo de Relación con Contraparte	Modalidad de contratación	Acuerdo Marco			
						Tipo	Número	Fecha suscripción	Número/Identifica
- 1	-								
- 2	-								
- 3	-								

VOLUME OF TRANSACTIONS WITH DERIVATIVE INSTRUMENTS USED IN LARGE-SCALE MINING IN 2014



VOLUME OF DERIVATIVE INSTRUMENTS USED IN LARGE-SCALE MINING IN 2012, 2013 AND 2014

INSTRUMENT	YEAR		
	2012	2013	2014
FORWARDS	4,696	4,385	3,835
SWAPS	5,143	1,246	1,866
FUTURES	955	1,814	88
OTHER	81	56	76
TOTAL	12,887	9,514	7,879

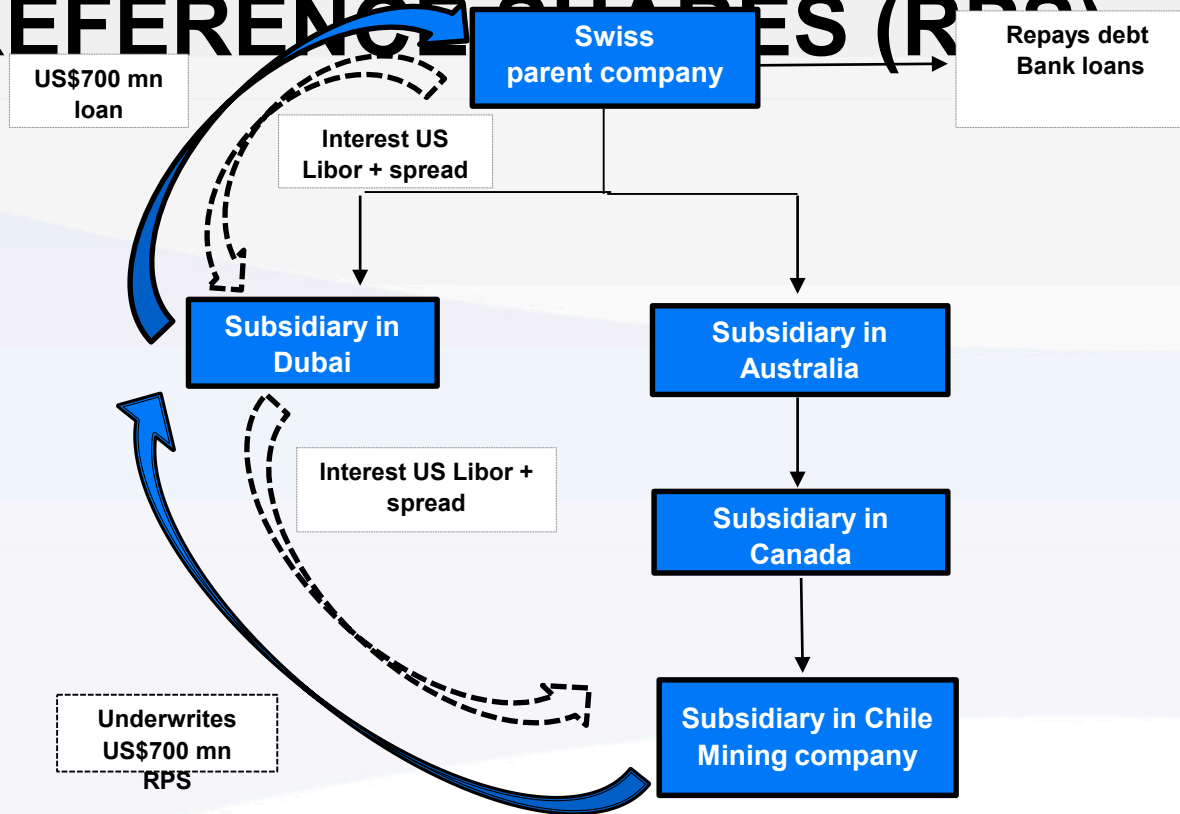
- **BASE EROSION & PROFIT SHIFTING (BEPS) APPLICATION**
 - Action No.2 - Hybrid agreements
 - Instructions are being developed for overseeing these transactions.
 - OECD recommendations have been considered and possible legal changes are being evaluated.
 - Initial measures adopted, the introduction of sworn statements:
 - "Sworn Statement on the Establishment of Trusts and Similar Entities, and Information on the Persons Involved with them"
 - "Sworn Statement on Modifications of Trusts and Similar Entities, and Information on the Persons Involved with them."

- **IMPLICIT DERIVATIVES**
 - **Investments carried out from abroad, especially in goods (bringing in of capital goods), as they may be over-valued, due to the use of some financial instruments.**
 - **Efforts are currently under way to determine the best way to access that information (sworn statements, for instance)**

- **CASE 1. PURCHASE OF REDEEMABLE PREFERENCE SHARES (RPS)**
 - Chilean enterprise invests in 5-year, renewable RPS with a related company abroad.
 - Interest from the transaction accrues, but is not collected.
 - In Chile, income abroad is only recognized when it is collected, so that no kind of tax is triggered while the interest is not collected.
 - Tax reform creates and improves anti-evasion rules.

▪ CASE 1. PURCHASE OF REDEEMABLE

PREFERENCE SHARES (RPS)



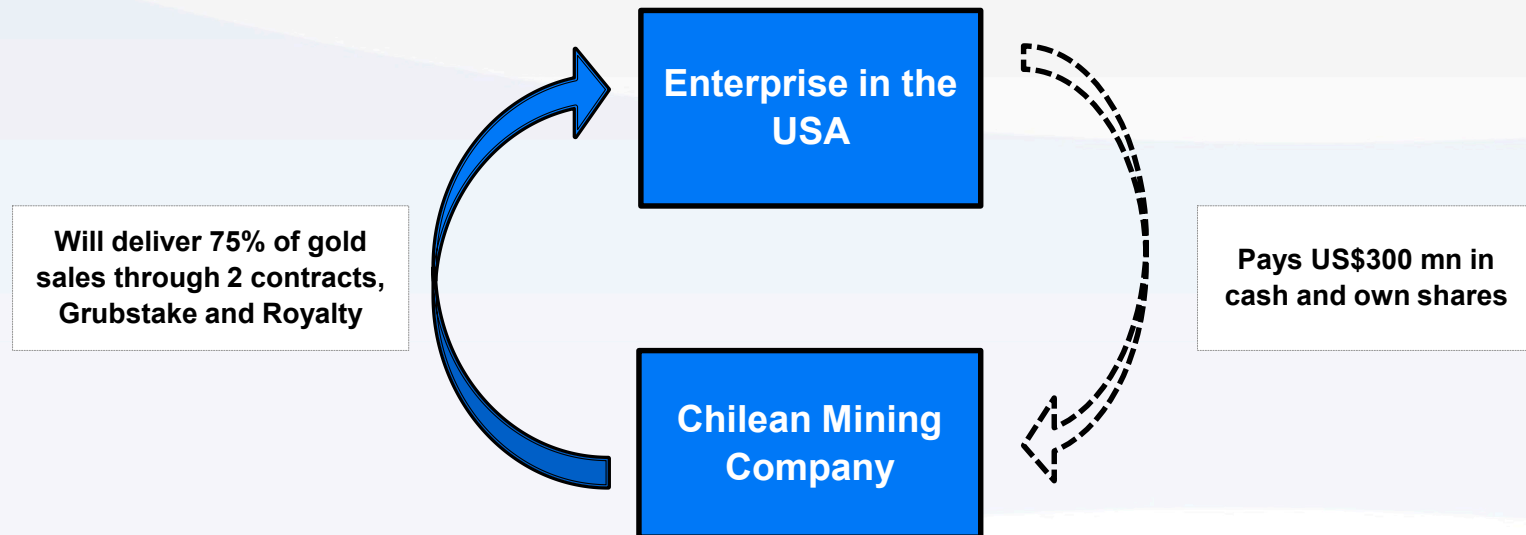
- **CASE 1. PURCHASE OF REDEEMABLE PREFERENCE SHARES (RPS)**

Effects:

- **The parent company receives funds that enable it to repay debts, without having to pay tax in Chile immediately**
- **Interest accruing from the contract for the Chilean enterprise is not taxable until collected, the tax payment is deferred.**

▪ CASE 2. SALE OF RIGHTS TO GOLD OUTPUT

- Chilean enterprise concludes 2 contracts (grubstake and royalty) in which it cedes rights to its gold output and in return receives money from and shares in the foreign company.

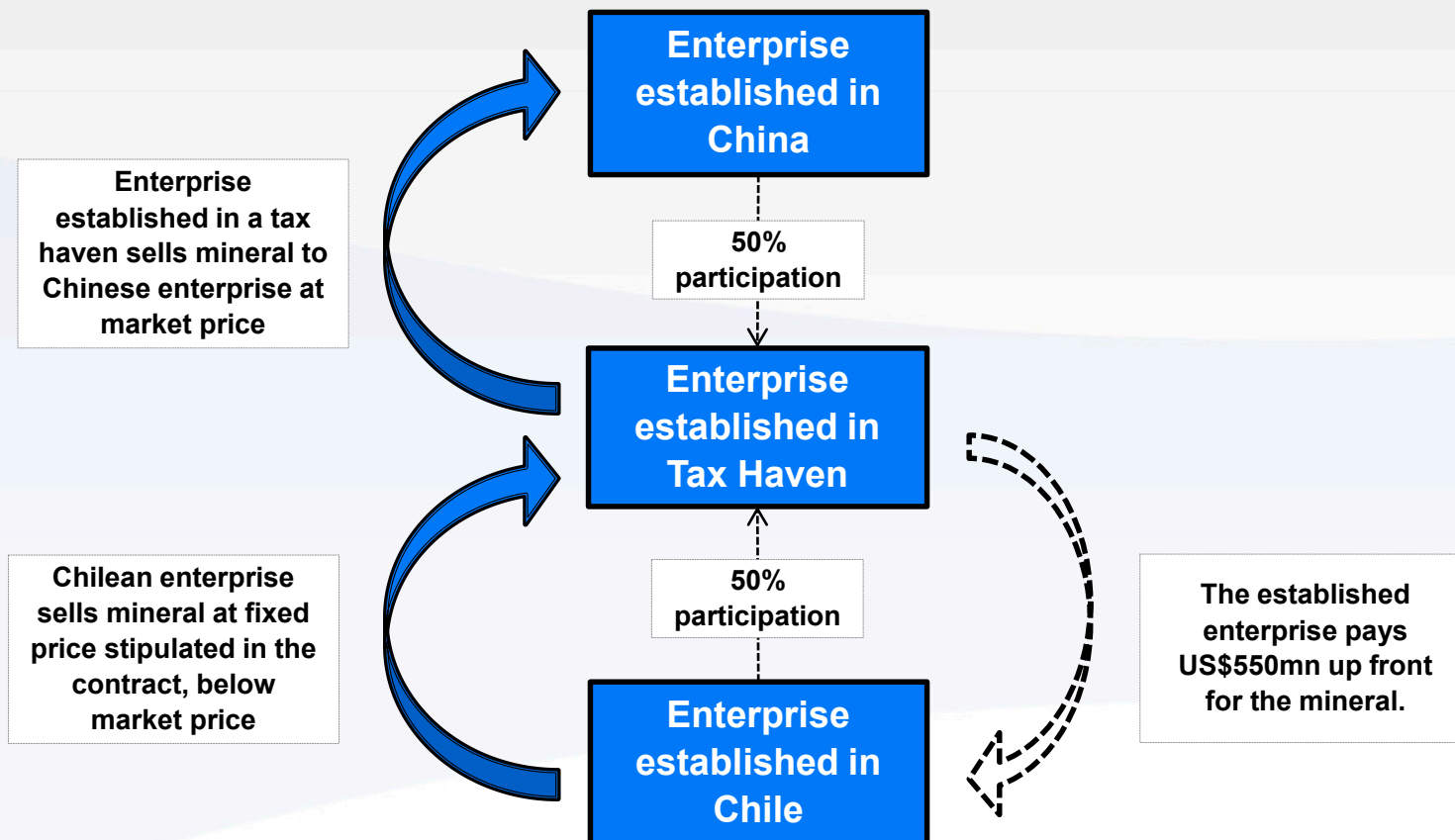


- **CASE 2. SALE OF RIGHTS TO GOLD OUTPUT**

Effects:

- **Lowering of the tax base in Chile, due to the lower price used to determine royalty and grubstake payments.**
- **Lower taxation (as a one-time first category tax) on the future sale of the shares transferred to the Chilean enterprise.**

- **CASE 3. SALE OF MINERALS TO A RELATED ENTERPRISE ESTABLISHED IN A TAX HAVEN.**



- **CASE 3. SALE OF MINERALE TO A RELATED ENTERPRISE ESTABLISHED IN A TAX HAVEN.**

Effects:

- **Lowering of the Chilean enterprise's tax assessment base**
- **Much of the profit is generated in a country with a preferential tax regime.**
- **Chile enterprise does not pay tax on profits generated in its subsidiary established in a tax haven until it withdraws the profits.**

- **ASPECTS OR INDICATORS THAT THE TAX ADMINISTRATION MUST CONSIDER:**

- 1. Who makes the decisions: the parent company or the subsidiary**
- 2. Place of residence of the counterparty: tax haven or special regime.**
- 3. Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) ratio**
- 4. Historical outcomes.**
- 5. Economic group approach to the transaction**