

# SETTING UP BUSINESS IN CHILE



## General Aspects

Chile is located south west of South America and is 4,200 km. long, in addition to the Chilean Antarctic. It borders with Peru on the north, Bolivia and Argentina on the east, on the west with the Pacific Ocean and on the south with the South Pole.

With 17,76 millions of inhabitants, a density of 20.4 inhabitants per square km. The currency is the Chilean Peso (\$) or CLP). The official language is Spanish.

## Legal Forms of Business Entities

Legal form	Feature	Remarks
<b>Branch Office, Agency (Establecimiento Permanente)</b>	Is not an autonomous legal entity in itself, but an agency of the parent Company which establishes its domicile in Chile. It is a business extension of its parent company abroad.	To establish a branch of a foreign legal entity in Chile, it is necessary that certain consul-certified and legalized documents be registered with a local Notary Public. Thereafter, the agent must execute a public deed containing a statement of establishment for the branch.
<b>Corporation (Sociedad Anónima)</b>	In general terms, Chilean regulations on corporations do not differ much from those of other jurisdictions. Under Chilean law (basically, the Corporations Act -Law Nr. 18,046- and its Regulations), corporations may be either publicly-held or closely-held corporations.	Publicly-held corporations are basically those where the shares are publicly traded or those having 500 or more shareholders or in which at least 10% of the shares belong to 100 shareholders, excluding for purposes of calculation thereof those shareholders who individually exceed such percentage. Make a public offering of their shares. Closely-held corporations are basically those not falling within the above definition and they do not make public offering of their shares.
<b>Simplified Corporations (Sociedad por Acciones)</b>	Namely, "Sociedad por Acciones", or "SpA"), which basically provides for a corporate structure similar to that of a closely-held corporation, although having some material differences to reduce formalities and administrative costs attached generally to corporations. Its administration is much more flexible and can be constituted by a single shareholder, whether a natural or legal person.	SpAs are governed by the Commerce Code, but in the absence of provisions therein (and in the relevant by-laws), they are governed by those provisions applicable to closely-held corporations. May have one shareholder

<b>Limited Liability Company (Sociedad de Responsabilidad Limitada)</b>	Limited liability companies are organized by execution of a public deed by at least two parties, either individuals and/or legal entities. Said deed must also set forth the name of the company, its corporate purpose, capital contributions and so on, as well as the by-laws of the company.	Limited liability companies are not subject per se to any particular supervisory control, such as that exercised by the SVS over publicly-held corporations. They are controlled by the tax authority
<b>Individual Limited Liability Company</b>	It is constituted only by a natural person, is a commercial company with its own patrimony different from the owner and is subject to the "Commercial Code"	It is governed by Law 19857

## Foreign Investment in Chile

The regulatory framework for foreign investment in Chile is mainly found in two legal bodies: The Framework Law for Direct Foreign Investment in Chile (Law 20,848 or "DFI Law"), in effect as of January 1, 2016, and Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile.

Additionally, Chile has executed Agreements on Reciprocal Promotion and Protection of Investments ("APIs", also known as Bilateral Investment Treaties or "BITs") and Free Trade Agreements ("FTAs") with numerous countries, providing additional protection for foreign investors. This also includes the Agreements for the Avoidance of Double Taxation that Chile has entered into with various States, which grant a more favorable tax treatment to foreign investments that come from such states. There are 32 countries with which Chile has signed double taxation agreements and with two subscribed countries that are not in force; Agreements with international transport and multilateral information exchange agreements with the European Community and the OECD

Topic	Feature	Remarks
<b>Direct Foreign Investment Law (DFI Law)</b>	The DFI Law regulates investments made by any natural or legal person incorporated overseas, not residing or domiciled in Chile, whose investment is equal to or greater than USD\$5,000,000, or the equivalent to said sum in other foreign currencies. For the protection of this law must obtain the qualification of "Foreign Investor"	Right of the Foreign Investor under DFI law Overseas repatriation - at any time - of the invested capital and net profits, once the applicable tax obligations have been fulfilled. Access to the Formal Exchange Market (FEM) to liquidate currencies. Right to not be arbitrarily discriminated. Right to value added tax (VAT) exemption in the import of capital assets.

**CHAPTER XIV OF THE COMPENDIUM OF FOREIGN EXCHANGE REGULATIONS OF THE CENTRAL BANK OF CHILE**

Chapter XIV of the Compendium of Foreign Exchange Regulations of the Banco Central de Chile (BCCH) ("Chapter XIV") regulates all foreign loans, deposits, investments and capital contributions for an aggregate amount equal to or higher than US\$10,000, (minimum amount currently in force under BCCH's policy) transferred into Chile from abroad.

Pursuant to the current foreign exchange regulations, all transfers of funds into Chile from abroad relating to loans, deposits, investments or capital contributions must be made through the Formal Exchange market (FEM) and be informed to the BCCH.

Loans may be disbursed in Chile or abroad; in both cases, these loans must be informed to the BCCH.

The terms for repayment of principal and interest may be freely agreed between the creditor and debtor, including the interest rate agreed upon by the parties.

If the debtor defaults on the payment of principal and/or interest, the law entitles the guarantor to pay and carry out the transfer of the funds. Such guarantee must be informed to the BCCH according to Chapter XIV as well.

The remittance of principal is not subject to taxation. The remittance of interest is subject to a 35% withholding tax, unless the lender is a foreign or international financial institution (e.g., a bank), in which case the payment of interest is subject to a 4% withholding tax.

## Economic Public Order

The Political Constitution of the Republic envisages certain principles and rules that seek to establish the foundations for our economic system, which are collectively known as "public economic order". Many of such principles and rules are based on the respect for individual liberties and private initiative as the primary driving forces of economic activities.

Topic	Feature	Remarks
<p><b>Constitutional Rights and Their Protection</b></p>	<p>The Constitution protects certain economic constitutional rights, such as the property right, the right to acquire goods, equality before the law, equal protection of the law in the exercise of rights, the right of association, freedom of work, the equal distribution of taxes and other public burdens as determined by law, the right to develop any lawful economic activity, non- discrimination by the State in economic matters, among others.</p>	<p>The property right is particularly relevant, as it is the pillar for private economic activity.</p> <p>The Constitution additionally sets forth that only the law may establish the limitations and obligations that result from the social function of property, as required by the Nation's general interests, national security, public use and sanitation and the conservation of the environmental heritage.</p>

<p><b>Control of Public Spending</b></p>	<p>The Constitution establishes numerous provisions with the goal of controlling public spending.</p>	<p>Only the President of the Republic may initiate the discussion of bills of law intended to (i) create new public services or jobs that are remunerated by the State; or (ii) take out loans or enter into any other kind of operations.</p> <p>The President must submit to Congress, every year, the bill for the National Budget. In turn, Congress is not entitled to increase or decrease the estimation of income within the context of this bill; and in general is only entitled to reduce the expenses contained in the same.</p> <p>Finally, one of the main functions of the General Comptroller of the Republic - an autonomous body, of constitutional status, which is independent from the Executive Branch - is to monitor the State's income and investment of its funds</p>
<p><b>Competition Law</b></p>	<p>The competition legal regime applicable in Chile is contained in Decree Law No. 211 ("DL 211") which sanctions any act or agreement that prevents, restricts or hinders free competition, or that tends to produce any of the aforementioned effects.</p>	<p>The DL 211 broadly defines the conducts contravening free competition as "any fact, act or transaction that impedes, restricts or distorts free competition or tends to produce such effects".</p> <p>In Chile, there is no mandatory ex ante merger control, although such control can be applicable if (i) the merging parties voluntarily submit the proposed transaction to the review and approval of the Antitrust Court, or (ii) if the National Economic Prosecutor (NEP) and/or third parties challenge the transaction before the Antitrust Court, or (iii) if the NEP and the parties involved in the transaction arrange an extrajudicial agreement and submit such agreement to the Antitrust Court for its approval.</p> <p>Chilean merger control rules provide for voluntary filing.</p>



Topic	Feature	Remarks
<b>Environmental Regulations</b>	<p>In the last decade, Chilean environmental law has become increasingly important and consistent with far higher standards. From the judicial enforcement of the constitutional right to live in a pollution-free environment to the enactment of the Environmental Act, Law 19,300 ("EA"), and numerous decisions by the environmental authorities and landmark jurisprudence, the environmental regulations have formed a legal body that must be taken very much into account when considering any new investment project with environmental consequences.</p>	<p>There are three Governmental bodies related with the application of environmental regulations in Chile: the <b>Environmental Ministry</b>, which is in charge of the design and application of environmental policies, plans and programs, and the protection of the biodiversity and renewable resources. Second, the <b>Environmental Evaluation Service (SEA)</b>, whose main function is to administer the Environmental Impact Evaluation System. Finally, the <b>Environmental Superintendence ("SMA")</b>, which is a decentralized public service that executes, organizes and coordinates the follow-up and supervision of the environmental certification resolutions, prevention and decontamination plans, environmental quality and emissions regulations, management plans, and other environmental instruments established by law.</p>
<b>Intellectual Property</b>	<p>Trademarks have an effective term of 10 years. Registrations are granted for products and services as classified under the 10th edition of Nice Classification. In addition, the Law has two additional categories of trademarks; one is the "establecimiento comercial" for retailer names, and the other is known as "establecimiento industrial," for the name of manufacturing facilities. There is no trade name registration in Chile, but the Corporate Law grants protection for the name of Stock Corporations registered in the Registry of Commerce.</p>	<p>Trademark applications are filed before the "Instituto Nacional de la Propiedad Industrial" (INAPI) and are subject to an examination on formalities before publication, and on absolute and relative grounds after publication. Applications are published in the Official Gazette for opposition purposes.</p>
<b>Patents &amp; Designs</b>	<p>Patents have a validity term of 20 years counted as from the filing date, while for designs it is 10 years, also counted as from the filing date.</p>	<p>In order to file a patent application in Chile, the applicant must submit the complete text of the patent application in Spanish. However, INAPI practice has been to accept documents in English provided that a translation into Spanish thereof is subsequently provided.</p> <p>With regard to design applications, the applicant needs to file a complete set of drawings including side, front, plane, upper, rear and bottom plan views, showing the shape and configuration of the article in order to prepare the description.</p>

# Taxation

Under the Constitution of the Republic of Chile, taxes, customs duties and all kinds of public charges must be implemented through the enactment of a law passed by the Congress.

The initiative to legislate in tax matters rests only with the President of the Republic. Consequently, taxes may not be changed unless the Executive Branch takes action and Congress approves said initiative.

Tax	Feature	Remarks
<p><b>Corporate Income Tax</b></p>	<p>Taxpayers domiciled or residing in Chile are subject to taxation on income of any source. Non domiciled and non-resident taxpayers are taxed only on income from Chilean sources.</p> <p>Taxpayers can be organized into entities as discussed above.</p>	<p>Taxes established in the Income Tax Law are the following:</p> <p><b>First Category Tax:</b> This tax is paid by the company that obtains the benefits and is payable, at a rate of 25% for the taxpayer who has opted for the Assigned Income (Renta Atribuida). For the case of Semi Integrated Income (Renta Semi Integrada) the rate is 27% (temporarily for this group will be 25.5% for the year 2017).</p> <p>The law provides for two options, namely "Attributed Income" or "Semi Integrated Income".</p> <p>The taxation of the Attributed Income, the entity must pay a tax of 25% and the owners or investors will pay the maximum rate of 35% by reducing the 25% rate paid by the company as a credit, leaving the tax obligation fully fulfilled in the year of obtaining the benefits.</p> <p>On the other hand, the taxation of the "Semi Integrated Income", the entity will pay the income tax on the profits with a rate of 27% in the year of obtaining, and non-resident owners will be affected with taxes on the opportunity and year in which all or part of the profits are remitted, with a rate of 35%, using a credit of 17.55% (65% on the corporate rate of 27%). This partial credit of 65% operates for all investors residing in countries with which Chile does not have a current double taxation agreement, but when the investor is domiciled in a country with which Chile has a double taxation treaty, Tax on remittance of profits will be equal to 35% but with the credit of 100% of the corporate rate.</p> <p><b>Mining Royalty:</b></p> <p>This tax is applied to the mining companies incomes obtained in the exercise of its activities. Regarding mining companies with annual sales on any kind of minerals up to the equivalent to the value of 50,000 and not less than 12.000 metric tons of fine copper or less, they are subject to a progressive tax rate with a maximum of 4.5%. Mining companies with higher sales are subject to a progressive tax rate from 5% to 14 %, depending on their operational margin.</p>

<b>Income Tax</b>	Taxpayers domiciled or residing in Chile are subject to taxation on income of any source. Non domiciled and non-resident taxpayers are taxed only on income from Chilean sources. As an exception to the above, foreigners who establish their domicile or residence in Chile will only be subject to taxes on income from Chilean sources for the first three years (this term may be extended by the IRS National Commissioner).	<p>Taxes established in the Income Tax Law are the following (Cont.):</p> <p><b>Secondary Tax:</b> This tax is a progressive tax applied on the aggregate amount received by an employee on account of wages, salaries, profit-sharing or others. The taxation rates range from 0% to 35% as of 2017.</p> <p><b>Personal Progressive Tax: (Complementary Global Tax)</b> This tax is applied to persons domiciled or residing in Chile on income of any source, including in- come originating from outside of Chile and must be yearly declared by the taxpayer.</p> <p><b>Additional Tax:</b> This tax is assessed, as a general rule, on income from Chilean sources earned by individuals or entities neither domiciled nor residing in Chile. This tax is also assessed on certain payments made by Chilean taxpayers abroad. The general tax rate is 35%. The First Category Tax paid may be credited against the Additional Tax but must also be considered as additional taxable income for the Additional Tax. In the case of Semi Integrated income and if the foreign investor is from a country with which Chile does not have a double tax treaty, the credit for the First Category tax is limited to 65% of said tax, as explained before.</p>
<b>Additional Tax</b>	A tax will be applied on the total of the amounts paid or credited, without deduction, to persons without domicile or residence in the country, for rents that are remitted to remunerate the following benefits with the rates applicable to each operation, according to details below:	

## TAXABLE INCOME

## RATES

All amounts paid or credited, without deduction, for:

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| 1. Use of trademarks, patents, formulas and other similar services.  | 30% |
| 2. Royalties for the use of patents, industrial designs, topographies of integrated circuits, new plant varieties.                       | 15% |
| 3. Royalties for the use of computer programs.   | 15% |
| 4. Royalties for the use of standard or basic computer programs, intended only for use and not commercial exploitation, or reproduction. | 0%  |
| 5. Remittances to fiscal and / or harmful countries. And those related to 10% or more of capital or profits.                             | 30% |
| 6. Editing or author rights.   | 15% |
| 7. Remittances to producers and / or distributors of material to be exhibited in film and TV.  | 20% |
| 8. Interests in general.   | 35% |

Interest originated by:

- \* Deposits in Cta. Cte. And term in foreign or domestic currency;
- \* External loans from banks or financial institutions;



* Price balances for deferred coverage or collection system;	4%
* Bonds or debentures in foreign or national currency issued by companies incorporated in Chile, by the State of Chile or Central Bank of Chile;	
* Latin American Banking Acceptance ALADI (ABLAS).	
* Other instruments indicated in the law.	
9. Remuneration for services rendered abroad.	35%
9.1. Exemptions: payments for freight, shipping, storage, weighing, sampling and analysis of products, insurance and reinsurance other than those indicated in Article 59 No. 3, commissions, telecommunications, smelting and refining of products. . Advertising and promotion, market analysis, technological research, advice and legal defenses, among others, related to the export of goods and services.	0%
10. Remuneration for services rendered in Chile or abroad for engineering work or technical advice and professional or technical services.	15%
10.1 .Remittances to fiscal and / or harmful countries. And those related to 10% or more of capital or profits.	20%
11. Insurance premiums contracted in companies not established in Chile, on goods permanently located in the country or the loss of goods on temporary admission or in transit; Life insurance premiums.	22%
12. Reinsurance	2%
12.1 Premiums derived from insurance of the hull and machinery, excesses, freights, disbursements and others specific to the shipping activity are released; Those of aircraft, freight and others specific to the air navigation activity; As well as the protection and indemnification related to such activities and insurance and reinsurance for export credits.	0%
13. Sea freight, commissions or interests in maritime freight from or to Chilean ports, and other revenues for services to ships and cargoes at national ports, or foreigners that are necessary to provide transportation.	5%
14. Lease, sublease and other forms of assignment of the use or temporary enjoyment of foreign vessels that are destined or used in cabotage services or when the respective contracts allow or do not prohibit to use the ship for cabotage.	20%
15. Amounts paid by the lessee pursuant to the lease contract with or without purchase option, of an imported capital asset, susceptible of receiving a deferred payment system of customs duties. The profit is presumed to be 5% of the profits.	35%
16. Total income of Chilean source that receives or accrues a Chilean non-resident and that is not in the previous catalog.	35%
17. Remunerations arising exclusively from the development in Chile of scientific, cultural or sports activities	20%

Tax	Feature	Remarks
<b>Value Added Tax</b>	The tax rate is 19% assessed on the price of the transaction. When the price is manifestly below the normal level, the IRS is empowered to assess it.	<p>In general terms, the following transactions are subject to VAT:</p> <ul style="list-style-type: none"> <li>Sales and other contracts where by the title to movable goods is transferred, provided that they are executed on a recurrent basis;</li> <li>Services corresponding to commercial, industrial, financial, mining, construction, insurance, advertising, data processing and other business activities;</li> <li>Rental of movable goods, as well as the rental of real estate furnished or equipped to carry out industrial or commercial activities;</li> <li>Leasing of said goods;</li> <li>Insurance premiums with some exceptions; and,</li> <li>In certain cases, construction activities</li> </ul>
<b>Stamp Tax</b>	Bills of exchange, promissory notes, letters of credit and, in general, any kind of documentation referring to a loan or a credit transaction for borrowed money are subject to stamp tax.	The rate is 0.066% monthly on the face value of the document, with a maximum of 0.8%. Should the document be payable at sight, the rate is 0.332%.
<b>Real Estate Tax</b>	The tax is assessed on the fiscal valuation of the property.	Real estate is taxed at a rate between 1% per annum, on the tax assessment of property.



## Labor and Social Security System

Topic	Feature	Remarks
<b>Labor Contracts</b>	Our legislation recognizes three categories of labor contracts: individual labor contracts, collective labor contracts, and special contracts.	<p><b>Individual labor Contracts</b> This is a written contract between an employer and an employee whereby they are bound, the employee to render personal services under ties of dependence and subordination to the former, whereas the employer to pay compensation for those services.</p> <p><b>Collective Labor Agreements</b> Our Law recognizes two different collective labor contracts namely the Collective Labor Contract (Contrato Colectivo) and Collective Labor Agreement (Convenio Colectivo).</p> <p><b>Special Contracts</b> Our law also considers the existence of special labor contracts. Each of these contracts has its own characteristics and specifications.</p>
<b>Social Security</b>	In 1980 the Government introduced a major change in the Chilean Social Security system, making a transition from Government-administrated pension and managed healthcare systems, to contributions made to funds administrated by private entities subject to overall Government control.	<p>Employees must contribute 10% of their monthly remuneration up to a maximum of 74.3 Unidades de Fomento (currently approximately US\$3,060). Any remuneration in excess of 74.3 Unidades de Fomento is not subject to the 10% contribution.</p> <p>In addition, employees must contribute a 7% of their monthly remuneration for medical care, also up to a 74.3 UF cap.</p> <p>Additionally, there is a mandatory insurance that covers labor accident and professional diseases, which is financed by an employer's contribution equal to 0.95% of the employees' remuneration plus an additional payment ranging from 0% to 3.4% depending on the company's business risk.</p>
<b>Taxes</b>	We can distinguish between domestic and foreign employees domiciled or resident in Chile and foreign employees	<p><b>National and Foreign Employees with residence in Chile</b> Remunerations of employees are subject to a monthly Second Category Income tax, under a progressive tax scale to be deducted at source by the employer. Foreigners' employees rendering services in the country and that are domiciled or residing in Chile is also subject to the Second Category tax as explained above. Currently, the tax brackets range that goes from exemption to a 35% tax rate.</p> <p><b>Foreign Employees</b> As a general rule, foreigners neither domiciled nor residing in Chile and working in Chile are subject to a flat 35% Additional Income tax to be deducted by the company that employs them in Chile upon payment of the salary or fee.</p>

## Visas for Foreigners

Chilean law provides three kinds of visas for foreigners who wish to work in Chile, as follows:

Topic	Feature	Remarks
<b>Tourist Visa</b>	Foreigners coming to Chile for business but not intending to immigrate, take up residence or conduct remunerated activities are considered tourists.	The tourist visa is granted for a maximum period of 90 days. In certain cases, the Foreigners' Department of the Ministry of Internal Affairs may grant a special Work Permit to a tourist, allowing him to carry out remunerated services in Chile for periods not exceeding 30 days.
<b>Visa subject to an employment agreement (Work Visa)</b>	This visa is granted to foreigners who are living in Chile under a employment agreement. This visa is also made extensive to the spouse, parents and children living with the foreign employee in Chile. Provided they live at the expense of the foreign employee in Chile The visa is granted for up two years and may be extended for equal periods.	The Work Visa is granted subject to the following requirements: The employee must have legal domicile in Chile. The contract must be signed in Chile before a Public Notary. The foreigner professional must prove they hold the corresponding professional degree The profession, activity or work to be carried out by the employee is necessary for the country. The activities carry out are not considered dangerous for national security.
<b>Temporary Residence Visa</b>	This visa is granted, inter alia, to professionals, technicians and experts who do not come to Chile under a labor contract with a company or branch office in Chile. This visa is also made extensive to the spouse, parents and children living with the foreign employee in Chile. Provided they live at the expense of the foreigner in Chile. The visa is granted for up one year and may be extended once for an equal period.	To obtain this visa, documents must be filed proving the applicant's professional degree as well as other documents that may be requested by the authority.

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