



# 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.

## Business Organization in Chile

Legal form	Feature	Remarks
<b>Branch or Agency (Permanent Establishment)</b>	It is not an autonomous legal entity in itself, but an agency of the parent that establishes domicile in Chile. It is a commercial extension of its parent company abroad.	To establish a branch of a foreign legal person in Chile, it is necessary that certain documents be legalized and registered with a local Notary Public. Subsequently, the agent must execute a public deed that contains a declaration of establishment for the branch.
<b>Corporation (Sociedad Anónima)</b>	Generally speaking, Chilean corporate regulations do not differ much from other jurisdictions. Under Chilean law (basically, the Corporations Law - Law No. 18,046 and its Regulations), corporations can be public or private corporations.	Public limited companies are basically those in which their shares are publicly listed or have 500 or more shareholders or in which at least 10% of the shares belong to 100 shareholders, excluding for calculation purposes those shareholders who individually exceed said percentage. They make a public offer of their shares. Closed corporations are basically those that are not within the above definition, and do not make a public offer of their shares.
<b>Limited Liability Company (Sociedad de Responsabilidad Limitada)</b>	Limited liability companies are organized through the granting of a public deed by at least two parties, whether natural or legal persons. Said deed must include the name of the company, its corporate purpose and the amount of capital, among others. Any modification to its statutes requires unanimous agreement of the partners. Regulated by Law 3,918.	Limited liability companies are not subject to any particular supervisory control, such as that exercised by the Commission for the Financial Market (CMF) on open stock companies and on closed stock companies that voluntarily wish to be controlled by the CMF. They are controlled by the tax authority.
<b>Simplified Corporations (Sociedad por Acciones)</b>	Called "Stock Company", or "SpA"), it basically has a closed capital company, although it has some material differences for a corporate structure similar to that of a corporation, reducing the procedures and administrative costs generally associated with corporations. Its administration is much more flexible since it can fall to an administrator or a board of directors and can be made up of a single shareholder, whether it is a natural or legal person.	SpAs are governed by the Commercial Code, but in the absence of provisions therein they are governed by the provisions applicable to closed corporations. It can have 1 single shareholder.

**Individual Limited Liability Company (EIRL)**

It is constituted only by a natural person, it is a commercial company with its own assets different from that of the owner and is subject to the "Commercial Code"

It is governed by Law 19,857.  
 You can carry out all kinds of civil and commercial operations, except those reserved by law to corporations.  
 The company is exclusively liable for the obligations contracted within its business, with all its assets.

## Foreign Investment in Chile

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

Additionally, Chile has signed Reciprocal Investment Promotion and Protection Agreements ("APPI") and Free Trade Agreements ("FTA") with numerous countries, providing additional protection to foreign investors. This also includes the Agreements for the Avoidance of Double Taxation that Chile has concluded with several States, which grants a more favorable tax treatment to foreign investments from those States. There are 33 countries with which Chile has signed double taxation agreements and one non-current signed country; agreements with international transport and multilateral information exchange agreements with the European community and OECD.

Topic	Feature	Remarks
<b>Foreign Direct Investment Law (DFI Law)</b>	<p>The DFI Law regulates the investments made by any natural or legal person incorporated abroad, who does not reside or has a domicile in Chile, whose investment is equal to or greater than USD \$ 5,000,000, or its equivalent in other foreign currencies.</p> <p>For the protection of this law, it must obtain the qualification of "foreign investor".</p> <p>Regulated by Law 20,848.</p>	<p>Foreign Investor's Law under the DFI law</p> <p>Repatriation abroad - at any time - of the invested capital and of the net benefits, once the applicable tax obligations have been fulfilled.</p> <p>Access to the Formal Exchange Market ("FEM") to settle currencies.</p> <p>Right not to be arbitrarily discriminated against.</p> <p>Right to exemption from value added tax (VAT) on the importation of capital goods, in accordance with the requirements set forth in article 12 letter B No. 10 of DL 825.</p>
<b>Chapter XIV of the Compendium of international exchange regulations of the Central Bank of Chile</b>	<p>Chapter XIV of the Exchange Regulation Compendium of the Central Bank of Chile (BCCH) regulates all foreign loans, deposits, investments and capital contributions for a total amount equal to or greater than US \$ 10,000 (minimum amount currently in force under the policy of the BCCH) Transferred from abroad to Chile.</p> <p>In accordance with current exchange regulations, all transfers of funds from abroad to Chile, related to loans, deposits, investments or capital contributions, must be made through the Formal Currency Market (FEM) and reported to the BCCH.</p>	<p>Loans can be disbursed in Chile or abroad; In both cases, these loans must be reported to the BCCH.</p> <p>The terms for the repayment of the principal and interest can be freely agreed between the creditor and the debtor, including the interest rate agreed by the parties.</p> <p>If the debtor fails to pay the principal and / or interest, the law gives the guarantor the right to pay and carry out the transfer of the funds. Said guarantee must be reported to the BCCH in accordance with Chapter XIV.</p> <p>Capital transfer is not subject to tax. The remittance of interest is subject to a 35% withholding tax, unless the lender is a foreign or international financial institution (for example, a bank), in which case the payment of interest is subject to a withholding tax of 4%.</p>

# Economic Public Order

The Political Constitution of the Republic contemplates certain principles and rules that seek to establish the foundations for our economic system, which are collectively known as “economic public 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
<b>Constitutional Rights and Their Protection</b>	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.	The property right is particularly relevant, as it is the pillar for private economic activity. 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.
<b>Control of Public Spending</b>	The Constitution establishes numerous provisions with the goal of controlling public spending.	Only the President of the Republic may initiate the debate on bills intended to (i) create new public services or jobs paid by the State; or (ii) take out loans or participate in any other type of operations. The President must present to Congress, each year, the draft of the National Budget. In turn, Congress has no right to increase or decrease the revenue estimate within the context of this bill; And in general, you only have the right to reduce the expenses contained therein. Finally, one of the main functions of the Office of the Comptroller General of the Republic - an autonomous body of constitutional rank - independent of the Executive Power, exercises control over the State’s income, funds, and investment.
<b>Competition Law</b>	The legal regime of competition applicable in Chile is contained in Decree Law 211 (“DL 211”) that sanctions any act or agreement that prevents, restricts or hinders free competition or that tends to produce any of the aforementioned effects.	DL 211 broadly defines conducts that contravene free competition as “any fact, act or transaction that prevents, restricts or distorts free competition or tends to produce such effects”. In Chile, there is no exact prior control of mergers, although such control may be applicable if: i) the parties to the concentration voluntarily submit the proposed transaction to the review and approval of the Free Competition Defense Court, or ii) if the National Economic Prosecutor’s Office (FNE) or third parties challenge the transaction before the Court of Defense of Free Competition, or (iii) if the FNE and the parties involved in the transaction reach an out-of-court agreement and submit such agreement to the Antitrust Court for approval.

		Chilean merger control standards provide for voluntary filing. Law 20.945 incorporated into DL 211 the title IV called "Of Concentration Operations", which establishes a preventive and mandatory control of said class of operations, which is triggered from the notification made by the parties of an operation to the FNE.
<b>Environmental Regulations</b>	In the last decade, Chilean environmental legislation has become increasingly important and consistent with much higher standards. From the judicial application of the constitutional right to live in an environment free of contamination to the enactment of Law 19,300, and numerous decisions of environmental authorities and historical jurisprudence, environmental regulations have constituted a law that must be taken into account when considering any new investment project with environmental consequences.	There are three government agencies related to the application of environmental regulations in Chile: The Ministry of the Environment, in charge of the design and application of environmental policies, airplanes and programs and the protection of biodiversity and renewable resources. Secondly, the Environmental Assessment Service (SEA), whose main function is to administer the Environmental Impact Assessment System. Finally, the Superintendency of the Environment (SMA), which is a decentralized public service that executes, organizes and coordinates the monitoring and supervision of modifications to environmental certification, prevention and decontamination plans, environmental quality and emissions standards, management plans and Other environmental instruments established by law.
<b>Industrial property</b>	The brands have an effective term of 10 years. Registrations are granted for products and services classified in the 11th edition of the Nice Classification. Furthermore, the Law has two additional categories of trademarks; One is the "commercial establishment" for retailers, and the other is known as "industrial" for industrial production. There is no commercial name registry in Chile, but the Corporations Law grants protection to the name of Corporations registered in the Commercial Registry.	Trademark applications are filed with the National Institute of Industrial Property (INAPI) and are subject to a review of the formalities before publication and on an absolute and relative basis after publication. Applications are published in the Official Gazette so that any interested party may object to their registration.
<b>Patents and Designs</b>	Patents are an exclusive and exclusive right granted by the State for the protection of an invention, they have a validity period of 20 years from the filing date, while for designs it is 10 years, also counted from of the filing date. These terms are not renewable.	To file a patent application in Chile, the applicant must submit the full text of the patent application in Spanish. However, INAPI's practice has been to accept documents in English provided that a Spanish translation is subsequently provided. With regard to design applications, the applicant must submit a complete set of drawings including side, front, flat, top, back, and bottom views of the drawing, showing the shape and configuration of the item to prepare the description.

# Taxation

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

The initiative to legislate in tax matters rests solely with the President of the Republic. Consequently, taxes cannot 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>The taxes established in the Income Law are as follows:</p> <p>First Category Tax: 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 SME regime. In the case of Semi Integrated Income, the rate is 27%.</p> <p>The law provides for three options, namely: i) Semi Integrated Income; ii) SME Regime and iii) Tax Transparency Regime.</p> <p>ii) The taxation of the "Semi Integrated Income", affects the segmented entities such as Large Companies, will pay income tax on profits with a rate of 27% in the year of obtaining the income, and non-resident owners they will be affected by taxes at the time and year in which all or part of the profits are remitted to them, at a rate of 35%, using a credit of 17.55% (65% on the corporate rate of 27%). This 65% partial credit operates for all investors with residence in countries with which Chile does not have a double taxation agreement in force, instead when the investor is domiciled in a country with which Chile has a double taxation treaty, the Tax on the remittance of profits will be equal to 35% but with the credit of 100% of the corporate rate.</p> <p>ii) The companies classified as SMEs will keep complete accounting and will be taxed for their benefits with a rate of 25% and the owners will be taxed with the final taxes, based on the distribution of profits, applying the corporate tax in full.</p> <p>iii) The Pyme Tax Transparency regime, the companies of this group will be freed from keeping accounts and paying taxes. However, the owners are only affected by the final taxes, under the attribution criterion.</p> <p><b>Royalty to Mining:</b></p> <p>This tax is applied to the income of mining companies obtained in the exercise of their activities. Mining companies with annual sales of any type of minerals, up to the equivalent of 50,000 and not less than 12,000 metric tons of fine copper or less, are subject to a progressive tax rate with a maximum of 4.5%. The mining companies with the highest sales are subject to a progressive tax rate of 5% to 14%, depending on their operating margin.</p>

<b>Personal Income Tax</b>	<p>Taxpayers domiciled or resident in Chile are subject to worldwide tax on income.</p> <p>Non-domiciled and non-resident taxpayers are taxed only on income from a Chilean source.</p> <p>As an exception to the foregoing, foreigners who establish their domicile or residence in Chile will only be subject to taxes on income from Chilean sources during the first three years, this period may be extended by the Director of the Internal Revenue Service (SII)</p>	<p><b>Second Category Tax:</b> This tax is progressive applied on the total sum received by an employee for professional services, remuneration, profit sharing or others. Tax rates range from 0% to 40%.</p> <p><b>Progressive personal tax (Global Complementary):</b> This tax is applied to persons domiciled or residing in Chile with worldwide source income, including income from outside Chile and must be declared annually by the taxpayer.</p> <p><b>Additional Tax:</b> This tax is applied, as a general rule, on income from a Chilean source obtained by individuals or legal entities not domiciled or resident in Chile. This tax also applies to certain payments made by Chilean taxpayers abroad. The general tax rate is 35%.</p> <p>In the case of remittances of profits, the First Category Tax paid by the company may be credited against the Additional Tax, but it must also be considered as additional taxable income for the Additional Tax (Gross-Up).</p> <p>In the case of Semi Integrated Income, the procedure explained above applies.</p>
<b>Additional Tax</b>	<p>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:</p>	

**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;
  - \* Bonds or debentures in foreign or national currency issued by companies incorporated in Chile, by the State of Chile or Central Bank of Chile; 4%
  - \* 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> <p>Sales and other contracts where by the title to movable goods is transferred, provided that they are executed on a recurrent basis;</p> <p>Services corresponding to commercial, industrial, financial, mining, construction, insurance, advertising, data processing and other business activities;</p> <p>Rental of movable goods, as well as the rental of real estate furnished or equipped to carry out industrial or commercial activities;</p> <p>Leasing of said goods;</p> <p>Insurance premiums with some exceptions; and,</p> <p>In certain cases, construction activities</p>
<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>Territorial Tax</b>	The tax is calculated on the tax valuation of the property.	<p>Real estate is taxed at a rate of between 1% on the tax assessment of the property.</p> <p>Real estate whose tax value exceeds the sum of USD 470,000, in the possession of the same person, there is a surcharge that ranges from 0.075% to 0.275%.</p>

# 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></p> <p>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></p> <p>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></p> <p>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>	<p>In 1980, the Government introduced a major change in the Chilean social security system, transitioning from government-administered and pension-managed systems to contributions to funds managed by private entities under general government control.</p> <p>On Dec 28, 2017 the Insurance for the Accompaniment of Boys and Girls with serious illnesses (SANNA) Law 21063 is created</p>	<p>Employees must contribute 10% of their monthly remuneration up to a maximum of 79.2 Unidades de Fomento (currently approximately US\$3,300). Any remuneration in excess of 79,2 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 79,2 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. In addition, 0.6% for unemployment insurance.</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></p> <p>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.</p> <p>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.</p> <p>Currently, the tax brackets range that goes from exemption to a 35% tax rate.</p> <p><b>Foreign Employees</b></p> <p>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, extendable for equal periods until the expiration of the tourism permit.
<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. These beneficiaries, who are dependent, are not authorized to carry out paid activities in the country. 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, up to 2 years.	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. The extension must be submitted 90 days before the expiration of the permit that the foreigner owns.



**EUROPE**

Andorra  
Austria  
Belgium  
Bulgaria  
Croatia  
Cyprus  
Czech Republic  
Denmark  
Finland  
France  
**Germany**  
Greece  
Hungary  
Ireland  
Italy

**Luxembourg**

Malta  
Montenegro  
Norway  
Poland  
**Portugal**  
Romania  
Russia  
Serbia  
**Spain**  
Sweden  
Switzerland  
**The Netherlands**  
Ukraine  
United Kingdom

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Brazil  
Canada  
**Chile**  
**Colombia**  
Costa Rica  
Dominican Republic  
Ecuador  
El Salvador  
Guatemala  
Honduras  
**Mexico**  
Panama

Paraguay  
Peru  
**Uruguay**  
USA  
Venezuela

**MIDDLE EAST  
AND AFRICA**

Algeria  
Angola  
Egypt  
**Israel**  
Jordan  
Kenya  
Kuwait

Lebanon  
Mauricio  
Morocco  
Nigeria  
Saudi Arabia  
South Africa  
Tunisia  
Turkey  
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