



Doing Business in Chile

Doing business in Chile

Over the years, many foreign investors and executives have asked us the question: “Just how do I go about doing business in Chile?”

As a leading international firm of auditors and consultants, we first answered this question in 1923, when we opened our first office in Chile. Eighty-eight years later, the answer has varied with the changes in business law and taxation and in the political and economic environment, but the question is still being asked.

This publication summarizes our current answers to the questions that you, as an investor or potential investor in Chilean business, have probably asked yourself.

They are, of course, of a general nature and before making a decision, you should consider the unique characteristics of your own situation.

The information is current as of the date indicated in the cover page. From time to time, we will update this guide to incorporate our current thoughts regarding the issues to which we refer herein.

We are glad to help you to answer more specific questions you may have on how you should do business in Chile. Please contact the Deloitte office nearest to you. We are located in over 680 cities around the world. In Chile, our offices are located at:



Headquarters

Rosario Norte 407
Las Condes, Santiago
Chile
Phone: +56 227 297 000
Fax: +56 223 749 177
deloittechile@deloitte.com



Offices outside Santiago

Av. Grecia 860
3rd floor
Antofagasta
Chile
Phone: +56 552 449 660
Fax: +56 552 449 662
antofagasta@deloitte.com

Alvares 646
Office 906
Viña del Mar
Chile
Phone: +56 322 882 026
Fax: +56 322 975 625
vregionchile@deloitte.com

Chacabuco 485
7th floor
Concepción
Chile
Phone: +56 412 914 055
Fax: +56 412 914 066
concepcionchile@deloitte.com

Quillota 175
Office 1107
Puerto Montt
Chile
Phone: +56 652 268 600
Fax: +56 652 288 600
puertomontt@deloitte.com

Table of Contents

Doing Business in Chile: November, 2020.

• Ways to operate in Chile	5	• Taxes	15
Through a representative	5	Tax control	15
By registering a Chilean branch or agency of a nonresident foreign corporation	6	Income Tax	16
By forming a partnership or corporation	6	Income tax rates	17
By setting up a limited liability individual enterprise	6	Payment of income taxes	19
By setting up a company by shares	6	Income taxes applicable to a foreign investment	20
• Types of companies that may be set up in Chile	7	Taxation of different types of business establishments	21
Corporation ("sociedad anónima")	7	Specific tax on mining activities	21
General partnership ("sociedad colectiva")	8	Value Added Tax	21
Limited liability partnership ("sociedad de responsabilidad limitada")	9	Foreign tax credit	22
Limited partnership ("sociedad en comandita")	9	Treaties to avoid double taxation	22
Association ("asociación" or "cuentas en participación")	9	Article 41 D of the Income Tax Law	23
Company by shares ("sociedad por acciones")	10	Customs duties	23
• Foreign investments and loans	11	Stamp and seal tax	23
How to bring foreign capital into Chile	11	Municipal license	23
Title I, Chapter XIV of Chilean Central Bank's Compendium of Foreign Exchange Regulations	11	• Royalties, technical assistance and interests	24
Framework Law for Foreign Direct Investment in Chile and repeal of Decree Law 600	12	Taxes on royalty payments	24
Bringing loans into the country	12	Taxes on payments for services	25
Foreign exchange restrictions on foreign investment	12	Taxes on interest	25
• Foreign exchange operations	13		
Special regulations regarding foreign exchange operations	13		
Limitations to foreign exchange operations	13		
Differential exchange rates	14		

• Legal and Tax News	27	• Employment of expatriates in Chile	37
Modifications to the Income Tax Law	27	Employment of expatriates in Chile	37
Deductibility of expenses related to the operation of derivative instruments	29	Payment of Salaries in Foreign Currency	37
New rate of monthly provisional payment ("PPM", as per its acronym in Spanish)	29	Partial salary payment outside of Chile	37
Exemption from VAT on the import of capital goods	29	Income Tax on Income of Aliens	38
Refund of VAT credit for the acquisition of fixed assets	30	Chilean Social Security Payments	38
VAT on digital services	30	Taxes on Additional Benefits	38
VAT on services provided abroad	30	• Special business or tax incentives	40
Increase of requirements for private investment funds	30	Oil industry	40
Substitute tax on differences in the calculation of taxable equity	30	Duty Free zones	41
1% tax on regional investments called "Contribution for regional development"	31	Regional incentives	41
Green taxes	31	Export Incentives	41
Costs associated with the outbreak of COVID-19	31	Research and development activities	42
• Pensions, social security and other employee benefits	33	Solar thermal systems	42
Chilean Pension systems	33	Regime of instantaneous depreciation of fixed assets in Araucania Region	42
Contributions to pension plans	34	Regime of instantaneous depreciation of fixed assets acquired between October 1, 2019 and May 31, 2020	42
Cost of health care benefits	34	Instantaneous depreciation of 100% until December 31, 2022 for fixed assets acquired between June 1, 2020 and December 31, 2022	43
Labor-related accident insurance	34	Tax at the time of end of activities	43
Unemployment insurance	34	• Accounting and reporting	44
Severance indemnity payments	35	Administrative formalities that must be met before operations in Chile begin	44
Profit-sharing	36	Accounting Requirements	45
Disability and survivor insurance	36	Independent statutory audits	45
Maternity protection	36	Public availability of financial statements	45

Currency nomenclatures used in this document:

CLP: Chilean pesos

USD: United States Dollar (US Dollar)

UF: Inflation-linked Unit of currency

Ways to operate in Chile



Nonresident individuals and companies can operate in Chile in one of the following ways:

- By appointing a representative.
- By registering an agency or branch of a foreign entity.
- By setting up a company by shares.
- By a partnership or a corporation, in which case it is required to have another partner or shareholder.
- By an individual limited liability company (only applicable to natural persons).
- Below we have also included the concept of general partnership and limited partnerships.

Through a representative

A representative acts on the basis of a mandate, contained in a contract that the nonresident principal confers to a Chilean resident individual or entity. The representative acts on behalf and at the risk of the foreign principal to carry out one or more business transactions. The principal and the representative are free to agree whether or not the latter will receive any remuneration.

By registering a Chilean branch or agency of a nonresident foreign corporation

The foreign entity must appoint an agent to set up the branch in Chile. The agent must notarize the following documents that must be written in the official language of the foreign country and must be accompanied by a translation into Spanish, if they were granted in another language:

- Proof that the entity is legally incorporated abroad.
- Certification that the entity is still in existence.
- Authenticated copy of the entity's current bylaws.
- General power of attorney issued by the entity to the agent that will represent it in Chile; the power of attorney must state clearly that the agent acts in Chile in the entity's name with broad powers.

Then, the agent must formalize these documents in a notary's office of the address that the agency shall have in Chile. At the same time, the agent, on behalf of the entity, must notarize a deed that indicates, among other, the following information:

- The corporate name under the company will operate in Chile and its purpose.
- A statement that the company has knowledge about the Chilean legislation and regulations by which the country, its agencies, acts, contracts and obligations shall be governed.
- The entity will maintain in Chile current assets to cover the liabilities that must be fulfilled in Chile.
- The effective capital assigned to the Chilean branch or agency, and the way and dates that such capital will be brought into the country.
- The domicile of the main agency or branch in Chile.

Within sixty days, a summary of the notarized documents must be filed in the Register of Commerce. Within the same period, the summary must also be published in the Official Gazette web site, for which purpose the Notary Public should send electronically to the Official Gazette a digital copy of the relevant summary.

By forming a partnership or corporation

A Chilean partnership or corporation, which requires a minimum of two partners or shareholders, can be formed with one or more foreign partners or shareholders. The types of entities and how they are formed are detailed in the following chapter.

By setting up a limited liability individual enterprise

A limited liability individual enterprise is a legal entity with its own assets and liabilities, separate from those of the individual holder.

Only one individual, a Chilean or a foreigner, is required to set up a limited liability individual enterprise.

Limited liability individual enterprises must be incorporated by means of a public deed, which should contain at least those stipulations required by law. Which include:

- (i) Identification data of the incorporator; (ii) name of the company, which shall contain, at least, the name and surname of the incorporator, and shall conclude with the words "Limited Liability individual enterprise" or the abbreviation "EIRL" (as per its acronym in Spanish); (iii) amount of capital transferred to the company, indication of whether it is contributed in money or in kind and, in the latter case, the value assigned to it; (iv) the economic activity that will constitute the object or line of business of the company; (v) its domicile; and, (vi) the duration of the company. If nothing is indicated in this regard, it will be understood that its duration is indefinite.

A summary of the public deed, duly authorized by the Notary Public before whom it was signed, must be filed with the Register of Commerce corresponding to the domicile of the enterprise, and must be published within the sixty days following the deed's date in the Official Gazette web site, for which purpose the Notary Public should send electronically to the Official Gazette a digital copy of the relevant summary.

By setting up a company by shares

Company by shares corporate entity which can have only one shareholder. For more detail of this type of legal entity, please go to the next chapter.

Types of companies that may be set up in Chile



Under Chilean commercial law, the following types of partnerships or corporations can be formed:

Corporation (“**sociedad anónima**”)

The corporation is a legal person that results from the forming of a single equity contributed by the shareholders. The shareholders’ liability is limited to the amount of their individual contributions. The corporation can be publicly traded or closely held and managed by a board of directors, whose members can be replaced at any time. Chilean law considers that a corporation's activities are always mercantile, even though it is formed to carry out acts that would otherwise be deemed to be subject to civil law, and not mercantile law.

A corporation can be: listed, special or closely-held.

A corporation will be considered to be listed when it voluntarily or legally registers its shares in the Securities Registry of the Financial Market Commission (also “CMF” as per its acronym in Spanish, the successor and legal continuation of the former Superintendencia de Valores y Seguros or “SVS” (as per its acronym in Spanish).

It shall register its shares in the aforementioned Securities Registry and be subject to the control of the CMF when:

- The corporation's shares or other securities are listed on a Stock Exchange or are offered to investors in general through a public offering.
- The corporation has more than 500 shareholders.
- At least 10% of the subscribed capital is owned by more than 100 shareholders (excluding any shareholder that individually owns, either directly or through another person or legal entity, more than 10% of the corporation's capital).
- The corporation has elected voluntarily to be subject to the regulations and standards of a publicly traded corporation.

Special corporations are those that have their own regulation, such as insurance and reinsurance companies or mutual fund management companies.

Corporations are closely-held when they do not qualify as listed or special.

A corporation is created by means of a notarized deed that must contain, as a minimum, the following:

- The names, professions, addresses and Tax ID (if applicable) of the shareholders that are starting the corporation; are required.
- The name and domicile of the corporation.
- The specific objects for which the corporation is created.
- The term of the corporation, which can be indefinite; if nothing is said, the term is presumed to be indefinite.
- The capital of the corporation and the number of shares, indicating any preferred series of shares and privileges, and whether the shares have a par value or not; the manner and terms in which the shareholders must pay in their contributions, and the indication and value of all non-monetary contributions.
- How the corporation is to be managed and how the management will be controlled (e.g., inspections of accounts or auditors, in the case of closely-held corporations, or the appointment of the auditor, in the case of listed corporations). The administration of the corporation is carried out by a board of directors.
- The date of the closing of the fiscal year of the corporation and the preparation of the financial statements, and the time when the ordinary meeting of shareholders must be held. If nothing is indicated in this regard, it will be understood that the fiscal year closes on December 31 and that the ordinary shareholders' meeting shall be held in the first quarter of each year. In any case, for tax purposes, the financial statements must be closed as of December 31, unless otherwise authorized by the Chilean Internal Revenue Service ("SII", as per its acronym in Spanish).
- How profits will be distributed.
- How the company will be liquidated.
- The nature of the arbitration to which the differences between the shareholders or between these and the company or its administrators must be submitted. If nothing is indicated in this regard, it is understood that the differences will be submitted to the resolution of an Ex Aequo Et Bono arbitrator.

- The appointment of the members of the provisional board of directors and, in listed corporations, of the external auditors or account inspectors, if any, who shall audit the first fiscal year.

A summary of these of these bylaws must be registered in the Commercial Registry of the Real Estate Custodian corresponding to the domicile of the corporation. This extract must also be published once in the website of the Official Gazette, for which purpose the Notary must send via electronic means, a digital copy of the extract. Both the registration and the publication must be done within sixty days from the date of the respective deed.

General partnership ("sociedad colectiva")

In a general partnership all the partners administrate the company individually or through an elected representative. Each partner is responsible for the legal liabilities of the partnership without limit. That is to say, they will respond to all obligations with their personal assets.

Our legislation establishes two types of partnerships, civil and commercial. Regarding the first, the law does not require special formalities for its incorporation and reform.

To create a general partnership the partners, or their legal representatives, must sign a duly notarized deed. The partnership deed must contain, as a minimum, the following:

- The names, professions and addresses of the partners.
- The partnership's name, which must be the names of one or more of the partners, followed by the words "y compañía" (and company).
- Partner or partners who will administrate the general partnership and who are allowed to use the company's name.
- The capital contributed by each partner in cash or otherwise; if the contribution is not in cash, the value assigned to it or how such value is to be determined.
- The specific objects for which the corporation is created.
- The partnership's domicile.
- How the profits or losses are to be assigned to the partners.
- When the partnership will start and when it will end its legal existence.
- The amount each partner can withdraw annually for personal expenses, in the case of general partnerships.

- How the partnership is to be liquidated, and how its assets will be assigned to each partner.
- How differences among the partners are to be settled, whether or not an arbitrator will be used, and, if so, how he or she will be appointed.

In the case of commercial partnerships, an extract of the partnership deed must be registered in the Commercial Registry of the Real Estate Custodian corresponding to the domicile of the partnership, within sixty days from the date of the partnership deed.

Limited liability partnership ("sociedad de responsabilidad limitada")

A limited liability partnership is similar to a general partnership. The principal difference is that each partner's liability is limited either to the amount of capital he or she contributed or to a greater amount specified in the partnership deed.

A limited liability partnership is formed by a public deed, which must contain the same information required in the partnership deed, as well as a statement that the personal liability of the partners is limited to their contributions or to the amount specified in addition to those contributions.

The name of a limited liability partnership must contain the name of one or more of the partners, or a reference to the corporate purpose of the partnership and must end in the word "Limited". Otherwise, each partner is unlimitedly liable for all the obligations of the partnership, that is, they will respond to all obligations with their personal assets.

An extract of the bylaws is also required to be filed with the Commercial Registry of the Real Estate Custodian at the domicile of the corporation, within sixty days from the date of the articles of incorporation. In addition, the extract must be published once on the website of the Official Gazette within the same period of time.

Limited partnership ("sociedad en comandita")

In a limited partnership there are two types of partners: managers and limited partners. The former are the only ones with management powers, and their liability for the debts and losses of the partnership is unlimited; the latter provide all or part of the partnership's capital without any right to manage the partnership's affairs. The liability of these partners is limited to their contributions.

If shares represent the limited partners' capital, the partnership is known as a limited partnership with share capital ("sociedad en comandita por acciones"). Otherwise, it is a simple limited partnership ("sociedad en comandita simple").

The requirements to create a limited partnership are similar to those for forming a general partnership. If the partnership is a commercial limited partnership or a limited joint-stock partnership, its incorporation is governed by the same rules as the commercial partnership, i.e., by means of a public deed containing the above-mentioned items, with the exclusion of the names of the limited partners from the extract of such deed.

Likewise an extract of the partnership deed must be registered in the Commercial Registry of the Real Estate Custodian corresponding to the domicile of the partnership, within sixty days from the date of the partnership deed.

Association ("asociación" or "cuentas en participación")

An association is a contract between two or more business persons or entities to share in one or more commercial transactions, which will be carried out by one of them in his or her own name. The merchant in charge of the execution of the assignment is called "manager", and must render accountability to the other merchant (generally the capitalist), called participant, of his management with the objective of sharing any profit or loss that may arise from the business. The association does not constitute a legal entity. The association only creates rights between the partners. The manager is solely responsible to third parties. There are no legal requirements to form an association, without prejudice to the fact that the mandate must always be of a commercial or mercantile nature.

Company by shares (“sociedad por acciones”)

A company by shares is a legal entity that can be set up and can exist with only one or more shareholders. Liability is limited to the amount contributed or agreed to be contributed.

It is very flexible and its bylaws can establish different series of shares. In the absence of specific stipulations in the entity's bylaws, the rules governing corporations apply.

The bylaws of a company by shares can be agreed either in a public deed or in a private instrument where the shareholder's signature is notarized, that must contain, as a minimum, the following:

- The name of the company, that has to include “SpA”.
- The line of business of the company, which will always be mercantile.
- The capital of the company and the number of shares.
- How the company has to be administrated and who will provisionally administer the company (if applicable).
- The term of the corporation, which can be indefinite; if nothing is said, the term is presumed to be indefinite.

Within one month from the date of the incorporation of the company, a duly notarized summary must be filed in the Register of Commerce and published in the Official Gazette web site, for which purpose the Notary Public should send electronically to the Official Gazette a digital copy of the relevant summary.

Foreign investments and loans



How to bring foreign capital into Chile

The transfer of foreign capital into Chile must be made using any of several legal statutes: Title I, Chapter XIV of the Chilean Central Bank's Compendium of Foreign Exchange Regulations.

Title I, Chapter XIV of Chilean Central Bank's Compendium of Foreign Exchange Regulations

These regulations apply to investors who make foreign exchange operations related to credits, deposits, investments and capital contributions coming from abroad. The procedure is applied to the operations whenever the amount is greater than USD10,000 or their equivalent in other foreign currencies.

Foreign currencies must be brought into the country through the Formal Exchange Market (FEM), composed of banks and authorized exchange houses.

The foreign investor must inform the Chilean Central Bank of the investment, through a commercial bank or the intervening financial institution, according to the terms and conditions contained in the Chapter XIV regulations.

The registration process begins once the funds have entered the country through the FEM. However, foreign currency can also be disbursed directly abroad, in which case the Central Bank must be informed directly by the interested parties, normally within the first 10 days of the following month.

The Chilean Central Bank must be informed of payments or remittances of foreign currencies that correspond to capital, interest, profits and other benefits through the FEM entity involved in the operation. There are no restrictions as to the term or the amount of repatriations of these items.

All the transactions related to the conversion of the investment to Chilean pesos, and the foreign currency purchases for remitting profits or for repatriating the investment that should be made through the FEM, can be carried out whether the funds are acquired or not in the FEM. However the remittance abroad of the foreign currency must be performed through the FEM.

Additionally, investments can be made through the contribution of shares or equity in companies resident abroad to local entities.

Notwithstanding Chapter XIV's regulations, the Chilean Central Bank, under article 47 of its Organic Law, can enter into a foreign exchange agreement with external or internal investors or creditors and other parties in a foreign exchange operation, establishing the terms and conditions in which the capital, interests, profits or benefits that are generated can be used, sent abroad or restored to the investor or to the internal creditor, and also, to assure them free access to the FEM.

Framework Law for Foreign Direct Investment in Chile and repeal of Decree Law 600

The system established by Decree Law 600 ("DL 600") was in force in Chile since 1974 and regulated the relationship between the State of Chile and the foreign investor, through the signing of an investment contract between both, which contained the specific rules applicable to such investment and tax invariance options.

This system was repealed as of January 1, 2016, by means of Law 20,780. However, as of January 1, 2016 and for a term of four years, investors could apply for the invariability of the tax regime of the former DL 600 with an option of invariability of a 44.45% rate as total income tax burden for a term of 10 years for investments equal to or greater than USD 5 million, or invariability of the specific tax on mining activity for a term of fifteen years, provided that the investment amount was equal to or greater than USD 50 million.

On the other hand, investment contracts signed previously remain in force until the date contained in the agreement, and are governed by the rules contained in each particular contract.

In addition, the Framework Law for Direct Foreign Investment in Chile was enacted to replace the repealed DL 600 (Law 20,848).

This law guarantees foreign investors access to the formal exchange market to liquidate the foreign currency that makes up the investment; the right to send abroad capital and profits, provided that all tax obligations in Chile have been met; and equal treatment, since they will be subject to the common legal regime applicable to national investors, and may not be arbitrarily discriminated against.

The law also maintains the Sales and Services Tax ("VAT") exemption on imports of capital goods that was contemplated by the repealed DL 600.

Bringing loans into the country

Foreign loans do not require prior authorization from the Chilean Central Bank for their entrance into the country. In order to receive foreign currencies entered into the country, certain information regarding the operations must be submitted to the FEM entity involved, information that the Formal Exchange entity must send to the Chilean Central Bank before the funds are handed over to the debtor.

The debtor can receive the foreign currency or its equivalent in Chilean pesos.

The payment of the capital, of the interest and other obligations related to the loan must be remitted through the FEM and the Chilean Central Bank must be informed through a commercial bank.

Foreign exchange restrictions on foreign investment

To date, there are no restrictions applicable to credit, deposit, investment and capital contributions operations. Only information requirements and execution of certain operations through the FEM (Banks and Exchange Houses) remain.

Foreign exchange operations



Special regulations regarding foreign exchange operations

The Chilean Central Bank Law, which is interpreted by rulings issued by the Chilean Central Bank, regulates foreign exchange operations.

Chilean law considers the following to be foreign exchange operations:

- The purchase and sale or exchange of any type of foreign currency.
- Acts and conventions that create, modify or extinguish an obligation payable in foreign currency, although they do not involve the transfer of funds or money from or to Chile. Foreign currency is understood as the banknotes or coins of foreign countries, whatever their denomination or characteristics, and the bills of exchange, checks, credit letters, payment orders, promissory notes, money orders and any other document in which it appears an obligation payable in that currency.
- Transfers or transactions in gold or gold certificates.

Contracts or documents that contain liabilities expressed in a foreign currency with the stipulation that they are payable only in Chilean pesos, are not considered as foreign exchange operations.

Limitations to foreign exchange operations

The Organic Constitutional Law governing the Chilean Central Bank that is in force since April of 1990 established the principle of free trading in foreign currency. However, the law empowers the Chilean Central Bank of Chile to establish certain limits to foreign exchange operations.

The following are the limits that the Chilean Central Bank currently applies to foreign exchange operations.

- Some operations must be informed to the Chilean Central Bank and performed through the FEM. These are, among others: foreign exchange operations undertaken by insurance companies and reinsurance operations; derivative operations; investment operations, deposits and credits abroad; and credits, deposits, investments and capital contributions coming from abroad.
- Other operations of which the Chilean Central Bank must only be informed are payments related to imports and exports.
- Operations that must be performed through the FEM but do not need to be informed. These are, among others: royalty payments for trademarks, copyrights and patents and operations with foreign capital funds.

Furthermore, the law empowers the Chilean Central Bank to establish certain restrictions to foreign exchange operations that consist of: the need to bring back export proceeds and foreign currency liquidation; reserve deposits on credits, deposits or investments in foreign currencies that are coming from or granted abroad; requirement of prior authorization for some payment obligations or for the remittance of foreign currencies abroad; and limitation to the foreign currency held by the FEM entities. The Chilean Central Bank has not issued restrictions that are currently in force.

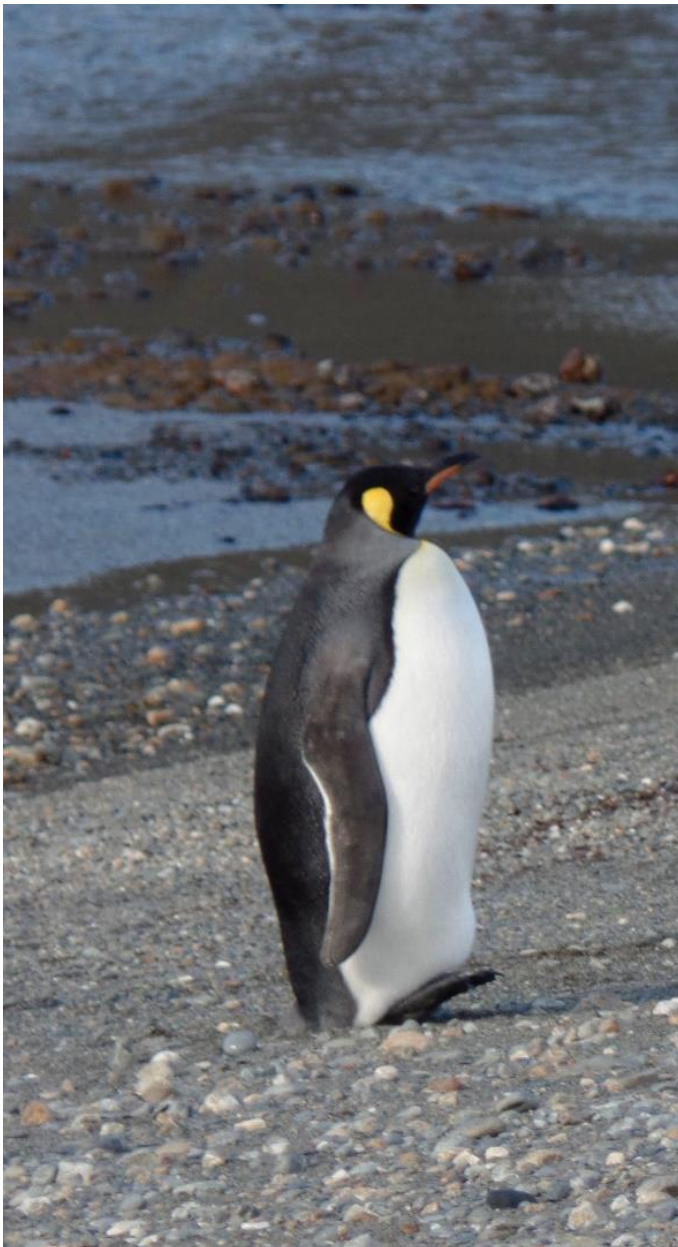
Differential exchange rates

The foreign exchange regulations allow freedom in the setting of exchange rates for transactions on both the formal and the informal exchange markets. The principal foreign currency quoted in Chile is the US dollar and exchange rates for other currencies are usually linked to the dollar exchange rate.

The following exchange rates in relation to the US dollar have evolved:

- The formal rate which is quoted by banks and financial institutions. An average of the previous day's transactions ("dólar observado") is published daily by the Central Bank and is the "official" rate for payment of taxes and customs duties.
- The informal rate ("dólar informal") is quoted on the Santiago Stock Exchange.

Taxes



Principal taxes in Chile

All taxes in Chile are levied at the national level. There are no significant municipal, provincial or regional taxes, except for the Municipal License.

The principal sources of tax revenue are:

- Corporate and personal income taxes.
- Value-added tax (VAT).
- Customs duties.
- Stamp tax.

In addition, the Chilean tax system includes a real estate tax, inheritance and gift tax, and several other lesser important taxes.

Tax control

The institution in charge of the inspection and control of taxes in Chile is the Chilean Internal Revenue Service ("Servicio de Impuestos Internos or SII in Spanish). The SII is also in charge of issuing instructions, rulings and interpretations of the tax laws. The SII has a special inspection unit for large corporate taxpayers included in a special list.

In the event of a controversy between the taxpayer and the SII, the administrative procedure is carried out in first instance before the Regional Director of the SII who acts as Tax Judge. The possibility of appealing to the Courts of Appeals and, finally, to the Supreme Court exists.

The statute of limitations is three years from the date in which the payment of the corresponding taxes should have been made. In special cases, the term extends to 6 years.

Income Tax

Income taxation in Chile is based on two factors: the taxpayer's place of residence and the source of the income. All resident taxpayers, whether individuals or corporations, are subject to taxes on their total income, wherever earned, with the sole exceptions of foreign individuals who only pay taxes on Chilean source income for their first three years in the country. This period can be extended.

In general, nonresident taxpayers are only taxed on Chilean-source income; that is, on income earned from assets located in Chile or from activities carried out in Chile. However, services rendered abroad to a Chilean resident are taxed.

A company incorporated and domiciled in Chile is taxed on its worldwide income. In the case of foreign source incomes, these will be added to the net taxable income on a received net basis, unless the control rules set forth in Article 41 G of the Income Tax Law apply, in which case the passive income referred to in that article shall be computed on an accrual basis, or in the case of branches or other permanent establishments abroad, where both the received and the accrued income will be considered in Chile.

Capital gains obtained from the direct or indirect disposal of shares, quotas, bonds or other securities convertible into shares or corporate rights or other rights representative of a company incorporated in Chile are also considered as Chilean source income, whether they are disposed of by a seller domiciled in Chile or abroad. In the case of indirect disposal of shares, certain additional requirements must be met. Capital gains for natural or legal persons not resident in Chile are often levied by a 35% profit tax, although other rates may apply by application of a convention to avoid double taxation or they may be exempt from taxes in Chile.

The Chilean tax law is divided into category taxes, which apply to the income of certain activities; and final taxes, which apply to the final beneficiaries of the income.

Category taxes are:

- The First Category Tax, with a variable rate, applies to income from manufacturing, trade, mining, real estate and other activities involving the use of capital.
- The Second Category Tax, with progressive rates, which applies to income from personal services of workers under employment contracts. The income of free-lance workers and professionals is considered as Second Category Income, but is not subject to Second Category Tax.

The final taxes are:

- The Global Complementary Tax, which applies to the total income from both categories, for individuals domiciled or resident in Chile.
- The Additional Tax, which applies to the total income from both categories, for companies or persons not resident in Chile. Profits generated by companies owned by shareholders or partners non-domiciled or nor residents of Chile are subject to this tax when they are withdrawn, distributed as dividends or sent abroad.

Income tax rates

The main income tax rates are as follows:

First Category Tax:

The tax rate varies according to the tax regime chosen (see description of each regime in the following section):

Year	General taxation regime (partially integrated regime)	Fully integrated regime (available for small and medium-sized enterprises)	Tax transparency regime (available to small and medium-sized enterprises meeting certain requirements)
2020 - 2022	27%	10%	0%
2023	27%	25%	0%

Second Category Tax (II):

• Self-employed persons (professionals, directors of corporations, professional partnerships, and others)	0 - 40%
• Employees (if subject to an employment contract, this is the only tax payable)	0 - 40%

Global Complementary Tax (resident individuals)

• As of January 1, 2020	0 - 40%
-------------------------	---------

Additional Tax (nonresident individuals and nonresident legal entities)

35%

Additional tax:

• Royalties paid abroad, in general	30%	(II)
• Computer programs and others	15%	(III)
• Royalties for the use of standard computer programs, without allowing their commercial exploitation	Exempt	
• Royalties paid abroad for film and video	20%	
• Royalties paid abroad for authors' and edition rights	15%	
• Engineering or technical work	15%	(IV)
• Professional or technical services	15%	(IV)
• Other services paid abroad	35%	
• Interest to foreign corporations	35%	
• Interest to foreign banks and registered financial institutions	4%	(V)
• Marine freight	5%	(VI)
• Insurance premiums to foreign insurers	22%	
• Reinsurance premiums to foreign reinsurers	2%	

Single Taxes:

• Expenses rejected to companies	40%	(VII)
• Single tax payable on the capital gain on the sale of shares	35%	(VIII)
• Single tax payable on the capital gain on the sale of real state	0 - 35%	(IX)

- I. Second Category income may be subject to the Global Complementary Tax or to Second Category Tax. Firms of professionals are eligible for the First Category Tax regime.
- II. A deductibility limit applies. See royalties section.
- III. The rate increases to 30% if the activity is carried out with an entity domiciled in a territory or jurisdiction considered as a preferential tax regime under Article 41 H of the Income Tax Act.
- IV. The rate increases to 20% if the activity is carried out with an entity domiciled in a territory or jurisdiction considered as a preferential tax regime under Article 41 H of the Income Tax Act.
- V. Interest on any excess indebtedness where thin capitalization rules apply is taxed at a single tax of 35% when the creditor to the loan is a related entity. See interests section.
- VI. There are exemptions on the basis of reciprocity.
- VII. Effective January 1, 2017, if the beneficiary of the disallowed expense is a foreign partner or shareholder, this partner or shareholder will be subject to the normal tax increased by 10% of the disallowed expense. In the case of foreigners, this increase results in an effective tax rate of 45% on the disallowed expense.
- VIII. The single tax on share capital gains was available for disposals made until December 31, 2016. From the 2017 business year onwards, the capital gains obtained in the disposal of Chilean entities are subject to the general regime or the Global Complementary Tax (with progressive rate) or the Additional Tax (with a 35% rate) as single taxes, as appropriate.

Capital gains from the sale of shares in an publicly traded corporation are tax-exempted, if certain requirements are met in their acquisition and subsequent sale.
- IX. The goodwill derived from the disposal of real estate located in Chile, or from rights or quotas with respect to such real estate held under common ownership, carried out by individuals (whether or not they are domiciled in Chile or are Chilean residents) will qualify as non-income revenue in that part that does not exceed, regardless of the number of disposals made and the number of taxpayer-owned real estate properties, of the total sum of UF 8,000 (approx. USD 300,000).

Payment of income taxes

An employee who only receives income in the form of wages from an employer domiciled in Chile does not need to file a tax return. In this case, the Second Category tax is withheld and paid monthly to the Treasury by the employer.

The First Category Tax or Corporate Tax is paid in April on annually earned income. Notwithstanding the foregoing, companies must make estimated monthly payments of income tax on the monthly income they earn, which can be used against the final income tax in April of the following year.

Taxation of partners or shareholders subject to final taxes (Global Complementary Tax for Chilean residents and Additional Tax for foreign residents earning Chilean source income) is affected by the regime under which the companies in which they have an interest are taxed with the First Category Tax.

Effective as of January 1, 2020, the Income Tax Law regimes are the partially integrated regime, which becomes the general taxation regime for large enterprises. In addition, there is an integrated regime for small and medium-sized enterprises whose sales do not exceed UF 75,000 (approximately USD 2.8 million), and an integrated regime called the "tax transparency regime" for companies whose sales do not exceed UF 50,000 (approximately USD 2.0 million) and whose owners are individuals.

Under the partially integrated regime, the first category tax levying a company has a rate of 27%. Partners or shareholders shall be taxed only when distributions or remittances are made from the company.

Under this regime, only 65% of the First Category Tax actually paid may be used as a credit against the taxes payable by the partner or shareholder. However, if the partner or shareholder resides in a country with which Chile maintains a convention to avoid double taxation, they may use 100% of the First Category Tax as a credit against the Additional Tax. This treatment may be granted temporarily until December 31, 2026, in the case of countries with which Chile has signed conventions to avoid double taxation before January 1, 2019, which are not in force.

On the other hand, under the integrated regime applicable to small and medium-sized enterprises whose sales do not exceed UF 75,000 (approximately USD 2.8 million), the First Category Tax levying the company will have a rate of 10% for the years 2020, 2021, and 2022, these being part of a series of measures taken by the government of Chile as a result of the COVID-19 pandemic. Effective as of the year 2023, the rate will be 25%. Under this regime, partners or shareholders will be taxed only when distributions or remittances are made from the company.

Partners or shareholders may use 100% of the First Category Tax actually paid by the company as credit against the final taxes levying them.

Moreover, under the tax transparency regime, applicable to small and medium-sized enterprises whose sales do not exceed UF 50,000 (approximately USD 2.0 million), and whose partners or shareholders are only individuals, these companies can choose to be taxed on the basis of distributed profits at the partner level. As a result, the company is not subject to income tax (0% rate).



For the current value of the UF, visit http://www.sii.cl/valores_y_fechas/uf/uf2020.htm

Income taxes applicable to a foreign investment

Shareholders of equity companies and partners in partnerships are generally taxed with the Additional Tax at a rate of 35%, but receive credit against the above-mentioned tax.

The following is a simplified example of income taxes that are generally levied on foreign investment in Chile. For the purposes of the example, only the general tax regime, which is the partially integrated tax regime, is illustrated:

	Partially integrated regime (country without convention for avoiding double taxation)	Partially integrated regime (country with convention for avoiding double taxation)
Profit before tax	1,000	1,000
First Category Income Tax	270	270
Distributable cash flow	730	730
Additional tax (I)	350	350
Tax Credit	176 (II)	270
Tax payable	174.5	80
Company taxation	270	270
Shareholder taxation	174.5	80
Total taxation	444.5	350

- I. The tax credit is added to the dividend to calculate the tax base for the Additional Tax.
- II. 35% of the credit for First Category Tax must be restored.

Taxation of different types of business establishments

In general, differences arising from the choice of business organization are not very significant.

The branch, office, or permanent establishment of a foreign company pays taxes on the Chilean source income on a received and accrual basis, and on foreign source income on a received basis. In any case, regarding foreign source income, the agency, branch or permanent establishment may use as credit the taxes paid on such profits abroad, with the limits and in the cases provided for by law.

The transfers of assets from the parent company to the permanent establishment shall be made at arm's length and may generate taxes if they represent a source of profit for the permanent establishment; however, in certain business reorganizations, the SII will be prohibited from appraising the operation.

The taxable income is determined on the basis of actual profits obtained by the permanent establishment. When the accounting records do not reflect actual profits, the SII can determine presumptive net income using either of the following tax bases:

- By multiplying, the branch gross income by the parent company's ratio of net income to gross income.
- By multiplying the branch's total assets by the parent company's ratio of net income to total assets.
- In the case of limited liability individual enterprises, the tax provisions applicable to limited liability partnerships apply.

Specific tax on mining activities

The mining activity is subject to an additional tax to the standard normal taxes, called "specific tax on mining activity" which is known as "Mining Royalty".

This tax levies the operating income from mining activity obtained by a mining operator. A mining operator comprises any individual or legal entity who extracts mineral ore of a concessional nature and sells it in any productive state in which they may be.

Mining operators with sales greater than the equivalent of 50,000 metric tons of fine copper are subject to a rate ranging from 5% to 34.5% depending on the mining operating margin as defined in the law.

Mining operators with annual sales between 12,000 and 50,000 metric tons of fine copper equivalent are subject to a progressive tax ranging from 0.5% to 4.5%. If annual sales are less than the equivalent of 12,000 metric tons of fine copper, they will not be subject to this tax.

The value of the metric ton of fine copper is determined according to the average value of the spot price of Grade A copper in the respective trade year recorded on the London Metal Exchange.

The operational income of mining activity is calculated according to the rules established by the Income Tax Act for the First Category Tax Base, but with certain aggregates and special deductions.

Where there is a foreign investment contract governed by DL 600 with the State of Chile in force for foreign investors, the applicability of these rates may be affected, which have changed through legislative changes over time. Because of the protection provided by the now repealed DL 600, investors have been able to choose whether or not to be affected by such modifications. In some cases, the invariability in relation to the rates and rules for the application of this tax should last until 2023.

Value Added Tax

A VAT of 19% is applicable to any convention which transfers the ownership of personal property on an onerous basis and other conventions on personal and real estate property, agreed on a habitual basis. Habitually is presumed regarding the sales belonging to the line of business of a company. VAT is levied on services, whether recurring or not, that originate a charge of interest, premiums, commissions or other similar remuneration, that are considered of a commercial, industrial, financial, mining, construction, advertising or computational nature, among others. Imports are subject to VAT, regardless of whether they are habitual or not. Professional services provided by employees or free-lance professionals are not taxed with VAT.

The VAT paid on imports, purchases and services received (tax credit) is offset against the VAT payable on sales and services provided (tax debit). The taxpayer that is a seller or service provider must file a monthly tax return and pay the net tax debit within the first twelve days of the month following the one in which the transaction occurred. If there is a net tax credit, it can be deducted in subsequent months (duly indexed to reflect inflation).

Exports are not taxed with VAT. The VAT paid on purchases of goods and services that are necessary to produce the exported goods is deducted from the VAT payable on other sales or is reimbursed by the SII.

In the case of the export of services, in order for the reimbursement of VAT to proceed, the National Customs Service has to qualify the services as an export; and the exemption will proceed with respect to the services provided in whole or in part in Chile to be used abroad.

There is a VAT exemption on imports of capital goods, provided certain requirements are met.

Since 1 June 2020, digital services provided by taxpayers domiciled or residents abroad are taxed at a 19% VAT. Digital services include digital intermediation, digital entertainment content, such as movies, music and others, through download or streaming, external advertising and data storage, among others. In addition, the provision of software, storage, platforms or IT infrastructure is also subject to VAT.

As a general rule, services subject to Additional Tax are exempted from VAT. However, in the case of services taxed under Article 59 of the Income Tax Law, but exempted from Additional Tax due to the application of tax treaties, or national laws, these may be taxed with VAT if they are provided or used in Chile, to the extent that they correspond to services taxed with VAT in general.

Certain luxury goods and beverages are subject to VAT and also to additional taxes on tobacco and fuel consumption, the rates of which vary according to different factors.

Foreign tax credit

Taxpayers domiciled or resident in Chile who obtain income that has been taxed abroad with income tax, may use such taxes as credit against income taxes in Chile.

In general, to use such credit, taxpayers must register the respective investment with the Foreign Investment Register of the SII in the year in which the investment is made.

Mandatory income taxes which are ultimately paid or withheld abroad, give rise to credit, provided they are equivalent or similar to the Chilean income tax. In order to be able to deduct them, it is necessary to substantiate them with receipts or certificates issued by the competent authority of the foreign country, or through any other means of proof. Also, in some cases, the corporate tax paid by the entity making the remittance may be used as credit.

The credit granted will correspond to the lesser of the tax actually incurred abroad or 35% on the gross income of each type of income taxed abroad, considered separately. Income from countries with and without convention for avoiding double taxation is considered separately.

In addition, a global cap is established that will correspond to 35% of the amount resulting from the addition of available credits to the net foreign source income of each year.

Finally, under Law No. 20,210 on Tax Modernization, it is established that the foreign investments of companies resident in Chile, in foreign companies that have investments in Chile, can use this credit. For this purpose, the withholding tax applied in Chile will give right to credit when the income to be recognized in Chile corresponds, in its origin, to Chilean source income obtained by taxpayers or entities without domicile or residence in the country.

Treaties to avoid double taxation

Currently, double taxation treaties are in force with the following countries: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, Korea, Croatia, Denmark, Ecuador, Spain, France, Ireland, Italy, Japan, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, and Northern Ireland, Czech Republic, Russia, South Africa, Sweden, Switzerland, Thailand and Uruguay.

All these treaties are based on the OECD model, although they also include clauses proposed in the United Nations model. In addition, Chile has signed double taxation agreements with the United States, the United Arab Emirates and India, which have not yet entered into force.

It should be noted that all the agreements contain the so-called “Chile Clause”, which implies that, as long as the First Category Tax is creditable against the Additional Tax, the reduced tax rate will not be applied to dividend distributions.

Additionally, Chile has signed bilateral agreements with several countries to avoid double taxation in international transport services, cargo and passengers, by sea or air.

Article 41 D of the Income Tax Law

Law No.19,840, published in the Official Gazette on November 23, 2002, incorporated article 41 D in the Income Tax Law which allows foreign investors to establish Chile as a base for their investments into third countries.

This applies to publicly traded corporations and closely held corporations ruled by the regulations of the former incorporated in Chile and in accordance with Chilean laws, incorporated with foreign capital permanently owned by partners or shareholders not domiciled nor resident in Chile, not in countries or territories that are considered tax haven jurisdictions, or harmful preferential tax regimes. These will not be considered domiciled in Chile, so they will be taxed in the country only for their Chilean source income.

The same tax treatment will be applicable to non domiciled nor resident shareholders of said companies, for remittances and distribution of profits or dividends obtained from them, and from partial or total repatriations of capital, as well as for the capital gains obtained from the disposal of shares in companies ruled by the aforementioned Article 41D.

Article 41D allows the participation of shareholders domiciled or resident in Chile in said companies, but limits their possibilities of ownership. Among other requirements, the aforementioned companies must have as an exclusive line of business, the investment in Chile and abroad in shares or partnership rights or in convertible bonds. The capital contributed by the foreign investor must have a foreign source; and the regulations related to bank secrecy will not be applied to them.

It should be noted that by virtue of Law No. 21,047 published in the Official Gazette on November 23, 2017, article 41 D of the Income Tax Law is repealed as of January 1, 2022.

Currently, new companies cannot enter the regime established in the rule of article 41 D.

Customs duties

Customs duties are 6% ad valorem for virtually all imported goods and products. There are some bilateral and regional reductions regarding some products, in the context of the free trade agreements or similar agreements.

Chile has signed free trade agreements (FTAs) with Australia, Canada, Mexico, the United States, the European free trade association (EFTA), Peru, Colombia, Central America, South Korea, Malaysia, Panama, China, Turkey, Thailand, Vietnam and Hong Kong. These treaties tend to eliminate customs duties between the participating countries within the terms established in each agreement.

It has also signed economic association agreements with the European Union, Japan, New Zealand, Singapore, and Brunei.

It also has economic complementation agreements with Bolivia, Cuba, Ecuador, Mercosur, Venezuela, and a partial scope agreement with India.

Stamp and seal tax

Issuance of documents containing credit obligations are subject to Stamp Tax at a 0,006% per month or fraction thereof, between disbursement and maturity, with a maximum of 0.8%. The rate will be of 0.332% on documented credit operations or for foreign loans or call loans or if they do not have a maturity term. Foreign loans are also subject to Stamp Tax, regardless if they are documented.

Municipal license

This is an annual tax that is collected by the municipalities. It taxes any activity carried out by taxpayer in its territory. The fee is calculated on the taxpayer's equity at a rate which is set by each municipality, with a minimum of 0.25% and a maximum of 0.5%. The total annual fee cannot exceed 8,000 UTM (USD601,005 approximately). The fee is allocated among the municipalities in which the taxpayer has an office, factory, warehouse or other establishment.

Law No.20,280 published in the Official Gazette on July 4, 2008 stated that the Internal Revenue Service has the obligation to inform to the municipalities the equity declared by the taxpayers, in order to facilitate the collection of the municipal license.

Royalties, technical assistance and interests



The foreign currency necessary for the payment of royalties can be freely acquired, however, payments must be made through the MCF.

Taxes on royalty payments

Under Chilean tax law, royalties paid abroad are generally subject to a 30% withholding tax, except in the case of royalty payments to persons resident or domiciled in countries with which Chile has entered into a double taxation treaty, in which case the rules of that treaty apply, or in respect of certain royalties which have a reduced rate of 15% or a total exemption.

In effect, the reduced rate of 15% is applicable in the case of royalties related to the use and exploitation of patents for inventions, utility models, industrial designs, layouts or topographies of integrated circuits, new varieties of plants, and computer programs on any type of physical support. Notwithstanding the above, in the event that these payments are made to a country that is considered a preferential tax regime under the rules of Article 41H, the applicable rate is 30%. Royalties paid to film or video producers or distributors are also subject to the tax with a rate of 20%. Royalties paid for copyrights and publishing rights are subject to a tax rate of 15%.

Finally, amounts paid for the use of standard computer programs, without the right to exploit them commercially, are tax exempted.

The person or entity that pays, sends money abroad, credits to account or makes available to the beneficiary abroad any amount for royalties, must withhold the corresponding tax, without any deduction. The tax withheld must be paid to the Treasury within the first twelve days of the month following its withholding.

For tax purposes, royalty payments made to related companies are only deductible up to a limit of 4% of the income from sales and services of the year, unless the tax levied in the country of the beneficiary is 30% or higher. Any surplus will be considered as an expense not deductible from the taxable base of the First Category Tax, but will not be affected by the Single Tax established in Article 21 of the Income Tax Law.

In addition, if the payment is made to a related entity, it may only be deducted as an expense in the calendar year in which the payment is made, credited to the account or made available to the creditor, and provided that the relevant withholding tax has been declared and paid, unless the amounts are exempted or not subject to this tax.

Taxes on payments for services

As a general rule, the remunerations paid or credited in account, to persons without domicile or residence in Chile, for services rendered abroad, are affected at a rate of 35%. However, payments abroad to entities not domiciled or resident in Chile for engineering or technical work or for professional or technical services embodied in advice, reports or plans are subject to a 15% withholding tax, whether provided in Chile or abroad.

Notwithstanding the above, the rate is increased to 20% if payments are made to persons resident in a territory or jurisdiction considered as a preferential tax regime according to Article 41 H of the Income Tax Law.

Certain services rendered abroad in connection with foreign trade are exempt from taxes, if certain requirements are met (e.g., commissions, understood as remuneration relating to a business mandate, freight, embarkation and disembarkation, international telecommunications, etc.).

Law No. 21,210 incorporated article 59 bis to the Income Tax Law, which establishes that the services referred to in article 8°, letter n), of the VAT Law (digital taxes), will be exempt from Additional Tax, as long as they are provided to individuals who are not VAT payers.

Taxes on interest

As a general rule, interest on foreign loans is subject to a 35% withholding tax. However, the tax is reduced to 4% when the loans have been granted from abroad by foreign or international banking or financial institutions, as well as by certain foreign pension funds and insurance companies. In these cases, the Chilean Internal Revenue Service ("SII", as per its acronym in Spanish) must be informed of the conditions of the transaction. This tax must be withheld and paid to the Treasury in the same manner as the tax on royalty payments. Additionally, if the creditor resides in a country with which Chile has entered into a double taxation agreement, the 35% tax could be reduced to 15% or 10%.

Notwithstanding the foregoing, the last tax reform made a modification that restricts the use of the 4% reduced withholding tax rate on loans that have been granted from abroad by foreign or international banking or financial institutions, when it comes to structured or successive financing agreements that allow the transfer of the interest paid under the loan to entities that would not be entitled to benefit from such reduced rate if they were the creditor. Credits granted prior to the entry into force of the reform will be governed by the old provisions.

In the event that a loan is considered "related" and is subject to any of the reduced rates under a double taxation agreement or by provision of law, thin capitalization rules would apply.

However, financing granted with guarantees from related parties who are domiciled abroad will not be considered as a related party loan, unless the guarantor is the final beneficiary of the interest.

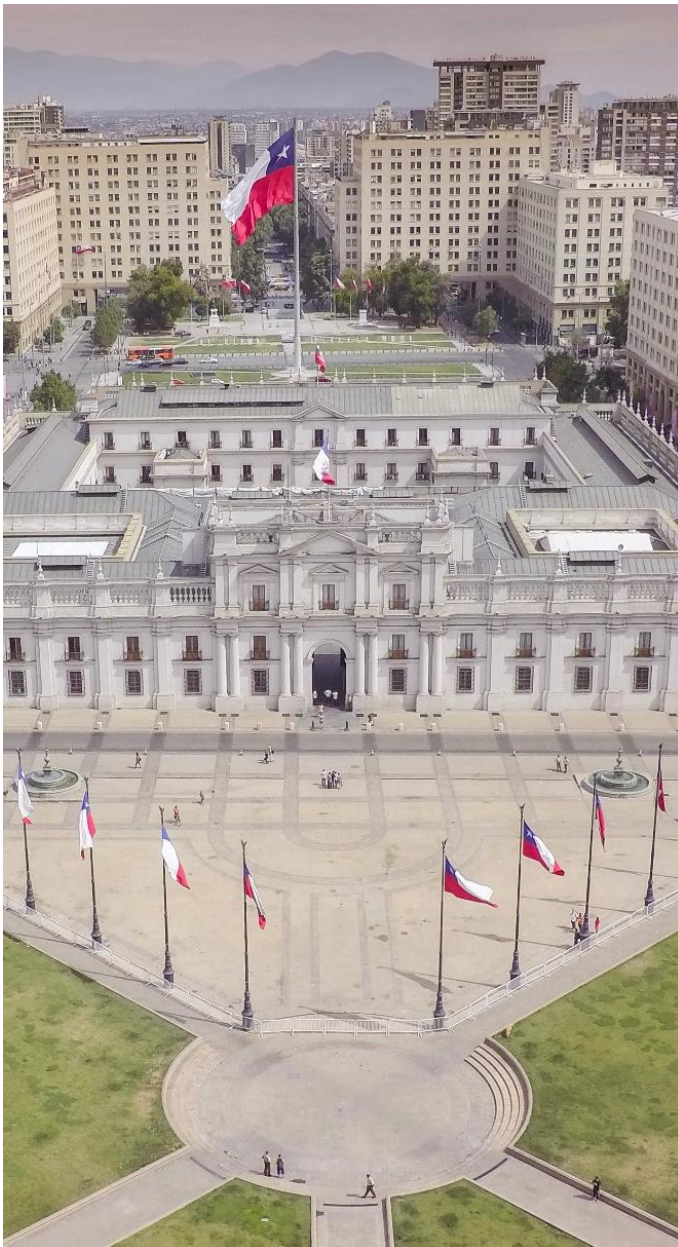
In the event that there is an "excess debt", consisting of a ratio between the total debt and the taxpayer's own capital greater than 3:1, thin capitalization rules will apply, and interest on the excess debt with related parties is taxed at the level of the debtor company with a 35% single tax, that will be charged to the debtor. Notwithstanding the above, this tax may be deducted as a necessary expense to produce the income of the interest payer and will have as a credit the Additional Tax withheld and paid, at a rate of 4%, or at a reduced rate due to the application of an agreement to avoid double taxation, calculated proportionally.

However, the thin capitalization rules will not apply when the financing obtained (i) is intended to finance the development, expansion or improvement of one or more projects in Chile, (ii) has been granted mainly by entities not related to the debtor, (iii) where for legal, financial or economic reasons, the lenders or service providers have required the constitution of entities of common property with the debtor or its related entities and (iv) provided that the interest and other amounts, as well as the guarantees that exist, have been agreed at their normal market values.

When thin capitalization rules have been modified (2015 and 2020), it has been established that loans granted before that date continue to be governed by the rules in force at the time of granting, unless they are modified after that date.



Legal and Tax News



Modifications to the Income Tax Law

On February 24, 2020, Law No. 21,210 "Law that Modernizes the Tax Legislation" was published in the Official Gazette, which introduced substantial reforms to the Income Tax Law, the Law on Sales and Services Tax (VAT Law), the Tax Code, among other regulations.

Among the main modifications are:

- The attributed income regime is repealed, becoming the partially integrated regime the general tax regime. The attributed income regime implied that tax profits generated at the corporate level were attributed to the partners, or shareholders, even if they were not withdrawn or distributed. On the other hand, under the partially integrated regime, taxation for partners or shareholders will be triggered only when there is a remittance or withdrawal of profits or distribution of dividends.
- A transitory provision is extended until 2026 under which investors resident in a country with which Chile has signed a double taxation agreement, but which is not in force, may obtain a credit for 100% of the First Category Tax paid against final taxes. Previously the provision was in force until 2021. In addition, it is established that the agreement must be signed before January 1, 2020.
- A fully integrated regime is established for small and medium sized companies whose annual sales do not exceed 75,000 Unidades de Fomento (approximately USD 2.8 million). This regime levies tax profits at a rate of 25%, and the tax paid at the company level grants a 100% credit against final taxes.

- A tax transparency regime is established for those small and medium-sized companies whose annual sales do not exceed 75,000 Unidades de Fomento (approximately USD 2.8 million), and whose partners or shareholders are final tax payers (individuals domiciled in Chile or abroad and foreign entities). This regime taxes the distributed tax profits with final taxes at the shareholders' level, thus reducing the first category tax rate on the company to 0%.
- A broader definition of expenses necessary to produce income is established. necessary to produce income. These expenses may be deducted from gross income for purposes of determining the first category tax base. The new definition is broader than the previous one, and indicates that the expression includes those expenses that have the capacity to generate income, in the same or future years, and are associated with the interest, development or maintenance of the business, that have not been reduced as a cost, paid or owed, during the corresponding business year, provided that they are credited or justified in a reliable manner before the SII.
- Some special expenses are introduced and modified that can be deducted from gross income by meeting a series of requirements, including bad debts, expenses incurred due to environmental requirements, measures or conditions, and disbursements for legal compensatory payments.
- The tax refund known as provisional payments for absorbed earnings or "PPUA" (as per its acronym in Spanish) is gradually eliminated. This situation occurs when a company is in a tax loss situation (for example, attributable to interest payments) and receives a dividend from a Chilean company. In that case, de facto compensation occurs, and the loss compensates the dividend in whole or in part. Thus, the holding company would be entitled to a cash refund of the first category tax paid by the investee company on the profits with which the dividend is paid. This refund will be reduced to 90% in the year 2020, and to 0% in the year 2024.
- The Tax Reform establishes the option of paying a substitute tax on the final taxes applicable to profit distributions by its partners, shareholders or owners at a reduced rate of 30% (versus the normal 35% rate), on part or all of the balance of accumulated earnings in the taxable profit fund ("FUT", as per its acronym in Spanish) until December 31, 2016. The First Category Tax constitutes a credit against the substitute tax and the amount on which the substitute tax was paid may be remitted at any time free of withholding.

The option may be exercised with the simultaneous filing and payment until the last business day of December 2020, 2021 or until the last business day of April 2022 for the aforementioned balances.

- An equity tax is established with a progressive rate on the real estate property of one or more properties whose fiscal value exceeds CLP 400 million in total (USD 500,000 approximately).
- The concept of permanent establishment is defined as a place that is used for the permanent or habitual performance of all or part of the business, line of business or activity of a person or entity without domicile or residence in Chile, whether used exclusively or not for this purpose, such as offices, agencies, facilities, construction projects and branches.

A permanent establishment will also be considered to exist when a person or entity without domicile or residence in Chile performs activities in the country represented by an agent and in the exercise of such activities such agent habitually concludes contracts proper to the ordinary course of business of the agent, plays a principal role leading to their conclusion, or negotiates essential elements thereof without their modification by the person or entity without domicile or residence in Chile.

Consequently, a permanent establishment of a person or entity without domicile or residence in Chile will not be constituted by an agent who is neither economically nor legally dependent on the principal and who carries out activities in the exercise of its ordinary business.

A permanent establishment will not be considered to exist if the person or entity without domicile or residence in Chile carries out exclusively activities auxiliary to the business or line of business, or activities preparatory to the start-up of the same in the country.

- The use of the reduced withholding tax rate of 4% that benefits foreign financial institutions is restricted. It will not apply in the presence of structured agreements that allow the transfer of the interest to entities that would not be entitled to benefit from that reduced rate if they were the creditor. Credits granted prior to the entry into force of the reform will be governed by the old provisions.

The concept of foreign financial institution is defined. The minimum capital is increased from 200,000 Unidades de Fomento to 400,000 Unidades de Fomento (USD 15 million approximately). In addition, among other things, its financing operations are required to be carried out on a regular basis. Loans granted before the entry into force of this law will continue to be subject to the rules currently in force, provided they are not substantially modified.

- Some changes are established with respect to thin capitalization rules. Among them, guarantees granted by related parties domiciled abroad will not be considered as related loans, unless the guarantor is the final beneficiary of the interest. In addition, when the resources are received to finance the development, expansion or improvement of projects to be carried out in Chile, the application of thin capitalization rules inhibited by meeting certain requirements.
- Rules are modified with respect to the right to credit for taxes borne abroad on certain income. The reform recast the rules in a single article, and harmonized the applicable ceilings.

In addition, under the last amendment, it is established that foreign investments by companies resident in Chile, in foreign companies that have investments in Chile, may access this credit. For this purpose, the withholding tax applied in Chile will give right to credit when the income to be recognized in Chile corresponds, in its origin, to Chilean source income obtained by taxpayers or entities without domicile or residence in the country.

- The amendment considers a modification in the way of determining the credit for First Category Tax to be used at the moment of paying the withholding tax applicable to withdrawals, remittances or distributions abroad. In effect, the provision indicates that the 35% withholding tax that must be paid when withdrawing, remitting, or distributing, must be considered a provisional credit against the First Category Tax, determined according to the First Category Tax rate in effect in the year of the remittance or distribution. The provisional credit will be subject to the obligation of restitution in the corresponding cases, pursuant to Articles 14 and 63 of the Income Tax Law. Thus, the tax treatment of any withdrawal, remittance, or distribution made abroad will be defined at the end of the year in which it is made. When the provisional credit applied exceeds that determined at the end of the year, the company must pay the difference to the Treasury with the right of reimbursement by the owners.

Deductibility of expenses related to the operation of derivative instruments

Law No. 20,544 established the obligation of taxpayers who enter into contracts for the operation of derivative instruments to submit certain sworn statements to the SII. In case of not making these sworn statements, or in case of making them with erroneous, false, or incomplete information, the taxpayer was prevented from deducting the associated expenses or losses generated during the complete life cycle of the derivatives.

Law No. 21,210 that Modernizes the Tax Legislation establishes that these penalties will not be applied and that, consequently, losses and expenses associated with operations of derivative instruments may be deducted to the extent that the return or returns are regularized in the term and in the manner established by the Chilean Internal Revenue Service.

New rate of monthly provisional payment ("PPM", as per its acronym in Spanish)

As provided in the Income Tax Law, first category taxpayers who obtain losses in a calendar year may suspend income tax PPMs for the first quarter of the calendar year following the loss. Thus, prior to the amendment of Law No. 21,210, taxpayers could only suspend PPMs after obtaining losses, and could not use projections of future losses to suspend these payments.

The reform established by Law N°21,210 allows recalculating the PPM rate when there is an increase or a reduction of its provisionally estimated liquid income of at least 30% compared to the liquid income determined for the quarter ending March 31, June 30, or September 30 of the same year, as the case may be, according to the respective accounting records.

Exemption from VAT on the import of capital goods

The reform extends the VAT exemption applicable to the import of fixed assets, allowing Chilean residents, and not only investors, to access the benefit.

Thus, the reform allows Chilean residents to apply for an exemption from this tax with respect to imported capital goods that are destined to the development, exploration or exploitation in Chile of mining, industrial, forestry, energy, infrastructure, telecommunications, technological, medical or scientific research or development projects, among others, that involve investments of USD5 million or more. In addition, the reform reduces the period before which the project must not generate income for this exemption to apply, from 12 months to 2 months from the date of import of the goods into the country.

Refund of VAT credit for the acquisition of fixed assets

According to the reform, taxpayers who have a VAT credit balance, for at least 2 or more consecutive months (previously it was required that the VAT credit balance be maintained for at least 6 consecutive months), generated in the acquisition of tangible goods intended to be incorporated to the fixed assets or to the taxpayer's services that must integrate the cost value of such goods, may choose to impute such balance to any type of tax or request its reimbursement.

The new text also establishes that real estate must be considered as part of the taxpayer's fixed assets from the moment the work or each of its stages is received by the owner of the construction. In case the taxpayer has obtained refunds during the construction of the building, it would be obliged to submit, if so required by the SII, the certificate of final receipt and to evidence its effective incorporation into the fixed assets at the time of completion of the construction of the building.

VAT on digital services

By virtue of this reform, the following services provided by persons domiciled or resident abroad are taxed with 19% VAT:

- The intermediation of services rendered in Chile, whatever their nature, or of sales made in Chile or abroad, provided that the latter give rise to an import;
- The supply or delivery of digital entertainment content, such as videos, music, games or other similar content, through downloading, streaming or other technology, including for these purposes, texts, magazines, newspapers and books;
- The provision of software, storage, computing platforms or infrastructure; and
- Advertising, regardless of the support or means through which it is delivered, materialized or executed.

Additionally, a new paragraph 7 bis is incorporated to the VAT Law, which establishes a simplified system of VAT reimbursement and payment for taxpayers not domiciled or resident in Chile.

VAT on services provided abroad

Services provided abroad subject to the withholding tax established in Article 59 of the Income Tax Law are exempt from VAT.

However, the reform establishes that services rendered abroad that are exempt from the withholding tax established in Article 59, due to the application of tax treaties, or national laws, may be subject to VAT if used in Chile, to the extent that they correspond to taxable events.

Increase of requirements for private investment funds

Stricter requirements are incorporated regarding the number of contributors and the percentage of shares they must have. It is established that one year after the creation of the fund and during its term, it must have a minimum of eight unrelated contributors, none of which may have more than 20% of the capital contributed to the fund (previously 4 unrelated contributors were required without more than 10% each). This restriction will not apply if the fund has among its contributors an institutional investor holding at least 50% of the fund's capital. Failure to comply with this rule has a number of relevant tax consequences.

Substitute tax on differences in the calculation of taxable equity

Taxable equity ("CPT" as per its acronym in Spanish) is defined as "the set of assets, rights and obligations of a taxpayer at their taxable value". Taxpayers that during tax year 2019 have reported to the SII a CPT greater or less than that determined by law, may rectify it during tax years 2020 or 2021. If the entity cannot justify the corresponding differences, it may choose to declare and pay a single substitute tax at a rate of 20%.

No fines, interest or the exercise of subsequent audits will be imposed in relation to differences resolved under this procedure. There are some exceptions.

1% tax on regional investments called "Contribution for regional development"

Taxpayers subject to the First Category Tax who determine their effective income according to full accounting are subject to a single tax for regional development for investment projects they carry out in Chile that (i) involve the acquisition, construction or import of fixed assets for a total value equal to or greater than USD10 million; and (ii) must be submitted to the environmental impact assessment system.

The tax rate would be 1%, on the amount exceeding USD 10 million. There are some exemptions related to health and education development projects, among others.

As a result of the measures taken to address the economic effects of COVID-19, an exemption from this new tax would apply to new investment projects whose environmental impact assessment process begins until December 2021 and provided that the project's implementation begins within three years from the notification of the resolution that qualifies it as environmentally favorable.

Green taxes

The reform modified the taxpayer subject to the tax, insofar as it will tax the owners of establishments that emit particulate material (nitrogen oxides (NOx), sulfur dioxide (SO2) or (CO2) and not the users of such establishments.

The installations that are affected are those that exceed the production of 100 or more annual tons of particulate material, or 25,000 or more annual tons of carbon dioxide (CO2).

A series of possibilities are established so that taxpayers can offset all or part of their taxable emissions through the implementation of emission reduction projects that comply with a series of requirements.

Costs associated with the outbreak of COVID-19

Those amounts incurred, either voluntarily or necessarily by the taxpayers, which are intended to prevent, contain or diminish the spread of COVID-19, are deemed as expenses which are necessary to produce income, and are therefore deductible as business expenses.

This includes those disbursements intended to reduce or mitigate its effects that are generally intended to protect the interests of the taxpayer's business, guaranteeing, for example, its present or future income, the maintenance or support of its workers, including the payment of salaries even though workers may not have been able to attend or be present at their workplaces due to a fortuitous event or force majeure, as well as, the implementation of strategic business plans and customer loyalty plans, avoiding a greater future payment or any other payment made in the interest of, or for the development or maintenance of, the business.

Some tax measures adopted to address the economic effects of the virus COVID-19:

- The First Category Tax was temporarily reduced for companies under the Pro Small and Medium Enterprise Regime from 25% to 10%, for income obtained during business years 2020, 2021 and 2022.

Likewise, the rate of Monthly Provisional Payments (PPMs) was reduced by half for the same taxpayers and years.

- Instantaneous depreciation was extended to 100% for the entire country, and for all investments in fixed assets made until December 31, 2022. Additionally, an instantaneous depreciation regime was incorporated for certain intangible assets (see special incentives section).
- An exemption to the regional development tax was established. The tax is levied on projects outside of the Santiago Metropolitan Region, in which more than USD 10 million is invested. It will apply to new investment projects whose environmental impact assessment process begins on or before December 2021 and provided that the project's implementation begins within three years from the notification of the resolution that qualifies it as environmentally favorable.
- The term of entry into force of the obligation to issue an electronic invoice applicable to those who are already electronic invoice issuers is postponed from September 2020 to January 2021.

- The total or partial forgiveness of the interest and fines applied to tax returns filed passed due, or applied to other procedures related to the Income Tax Law and the VAT Law, until December 31, 2020 is allowed.
- Total or partial forgiveness of the interest applicable to late payments of real estate tax, until December 31, 2020 is permitted.
- Stamp tax was temporarily reduced to zero, for taxes due from April 1, 2020 until September 30, 2020, both dates included.
- A series of financial support measures were established for entities carrying out passenger transport activities.



Pensions, social security and other employee benefits



Chilean Pension systems

Since 1980, employees who join the labor force have been required to contribute to the private system administered by pension fund administrators (“AFPs”, as per its acronym in Spanish) under an individual capitalization scheme.

Employees' contributions to private pension funds are withheld from monthly compensation at a fixed percentage, and based on a monthly remuneration of up to UF 80.2, adjusted for changes in the real compensation index. The taxable cap thus readjusted shall come into force on the first day of each year and shall be determined by resolution of the Superintendence of Pensions.

As of January 1, 2020, the Superintendence of Pensions has determined that the taxable limit for the calculation of social security contributions is UF 80.2, equivalent to approximately USD 2,982 (UF is an indexed unit of currency that is approximately equivalent to USD 37.2). The employee may choose to make additional contributions to his or her account individual through the voluntary social security savings system with a ceiling of UF 50 (USD 1,859) per month and/or UF 600 (USD 22,311) per year. Employers may also make non-taxable deposits of up to UF 900 (USD 33,466) per year.

Upon retirement, the employee may choose to receive a lump sum payment, a pension or a provisional combination of both, all of which are based on the amounts the employee has contributed to the fund. The lump sum can only be used to purchase annuity insurance from an insurance company.

As of February 2, 2019, the obligation to contribute is established for independent workers, that is, those who annually issue invoices for professional services in the amount of 5 or more minimum monthly salaries, and who as of January 1, 2018 were under 55 years of age, in the case of men, and under 50 years of age in the case of women.

For these purposes, every time these independent workers issue an invoice for professional services, a percentage of their gross income will be withheld. The contribution started in 2019 with 10% and will reach 17% in 2027, that extra percentage will be destined to the social security contributions.

Contributions to pension plans

Contributions to pension plans are made only by employees and self-employed individuals. Employee contributions are deductible from taxable income when calculating personal income taxes due. Contributions to a pension plan are based on monthly as the indicated above.

Employers have no responsibility for pensions other than withholding and paying employees' contributions.

Contributions to the private pension plans are at the rate of 10%, plus a variable commission established by each fund (currently about 6.69% and 1.45%). Along with the contribution to the pension fund, an employer premium is paid to finance disability and survivorship insurance.

The fund must purchase survivor and disability pension insurance from an insurance company.

Cost of health care benefits

Employees and self-employed individuals pay 7% on monthly remunerations up to a cap of 80.2 UF, equivalent to approximately USD 2,982, readjusted as indicated in the preceding paragraphs. Employers are only required to retain and pay for insurance.

Employees affiliated with one of the private pension plans can elect to make their contributions either to FONASA or to a private health insurance company (*Institución de Salud Previsional* or ISAPRE). Most health plans cover up to 80% of medical and hospital costs. As might be expected, contributing to health means having access to medical licenses, a benefit that is related to the taxable income for which people contribute.

Labor-related accident insurance

All employers must pay a 0.93% premium on remunerations capped 80.2 UF a month, readjusted as indicated in the previous paragraphs, for labor related accident insurance, (workmen's compensation). According to the risk of the employer's activity, additional contributions at varying rates may be required up to a maximum of 3.4%, based on the employer's track record. Both are paid by the employer.

Likewise, Law No. 21,010 establishes a contribution of 0.03% of the taxable wages of workers, at the expense of the employer, for the creation of a fund whose objective will be to finance insurance for parents of children with a serious health condition.

Unemployment insurance

For permanent contracts, this insurance is financed with an obligatory contribution by the employee of 0.6% plus a mandatory contribution of the employer of 2.4%, both calculated on the base of the employee's taxable income capped at 120.4 UF (USD 4,477 approximately) as of January 1st 2020. In the case of fixed-term contracts, the insurance quote is fully covered by the employer at a rate of 3%.

This cap will be annually readjusted according to the index of real remunerations determined by the National Statistic Institute or by the index that substitutes it, between November of the penultimate year and November of the last year, for the year that will begin. The taxable cap readjusted as above mentioned, will be in force as from the first day of each year.

Severance indemnity payments

The Code of Labor Laws (articles 163 and following) sets forth the obligation of the employer to make the following severance payments to the employee that is terminated due to “company needs” (i.e. economic constraints of the business or company activity):

- **Severance Payment in lieu of Notice:** One month of salary with a legal limit of UF 90 (approx. 3,347 USD).
- **Seniority-based severance payment:** One month of salary per year or fraction over six months of employment with the company, with a legal limit of 11 months, or eleven years of employment, and a legal limit of UF 90 (approx. 3,347 USD) per month.

This, notwithstanding the parties (employer and employee) individually or collectively (collective contracts or agreements) agreeing to paying the aforementioned severance payments without taking into account the legal limit per year of employment, or agreeing to contract payments additional to the legal payments.

To terminate a contract, the employer must state one of the legal causes included in the Code of Labor Laws (articles 159, 160, or 161). The employment contract does not create legal causes for termination of employment, and causes contained in a contract or any other policy that violate internal regulations are null and void. If the cause stated by the employer is deemed unjustified by a Court of Justice, the amount of the severance payment is increased between 30% and 100%, depending on the stated cause.

The severance payments must be made through a legal document named *Finiquito* (settlement agreement), that must be made available for payment by the employer to the employee no later than 10 business days after termination. The document must be signed and approved by the employee before an authorized certifying officer (Notary Public or Labor Inspector), and severance payments must be made in full in a single payment, despite the parties being able to agree the fractioning of the payment, with interests and readjustments, through a settlement agreement signed before a Labor Inspector.

If severance payments are not made, the employee may resort to *Inspección del Trabajo* (Labor Inspection), who may fine or sue the employer before a Labor Court, requesting that the outstanding amounts be increased up to 150%, if the employer does not make the severance payments agreed after the termination of employment.

For executives or high management positions (managers), or for positions of trust, the legal cause “written dismissal by the employer” applies. This cause does not require a reason for its statement; however, all legal payments corresponding to the aforementioned “company needs” cause are applicable.

In general terms, severance payments arising from legal or collective contract payments are non-taxable income for the employee, and deductible expenses for the employer. However, voluntary severance payments are different, as they are ruled by special regulations in terms of taxation. Thus, for instance, voluntary severance payments are considered taxable income for the portion exceeding the average of the last twenty four salaries of the employee, multiplied by the employee's years of employment.

Currently, the labor courts can order the General Treasury to withhold from the employer's tax returns an amount equivalent to the amount owed to due to the employee due to a trial, to assure that the employee will receive the amounts determined in said trial.

Profit-sharing

Payments for participation in company profits receive the local name of *gratificaciones* (gratifications), and are mandatory, and subject to one of two systems set forth in the Code of Labor Laws:

- 30% of net profits distributed proportionally according to the annual the annual salary of each employee. In this case, “net profits” are understood as the result of the netting carried by SII (Internal Revenue Service) for determining income taxes, deducting 10% of the value of the Employer's shareholder's equity, for interest over said equity.
- 25% of the annual income of each employee, with a maximum limit of 4.75 minimum monthly wages, for each employee, notwithstanding whether the employer reported profits, nor their amount. The maximum amount to be paid per employee under this concept is approx. 2,048 USD a year.

The minimum wage, as of September 1st, 2020, is CLP 326,500 monthly.

Regardless of the foregoing, employer and employee may agree on a payment schedule over the legal limit, as long as is more beneficial to the employee than the previously stated systems.

Payments for participation in company profits are taxable income for the employee and deductible expenses for the employer.

Disability and survivor insurance

All employers must pay Disability and Survival Insurance equivalent to 1.99% of the worker's taxable remuneration

Maternity protection

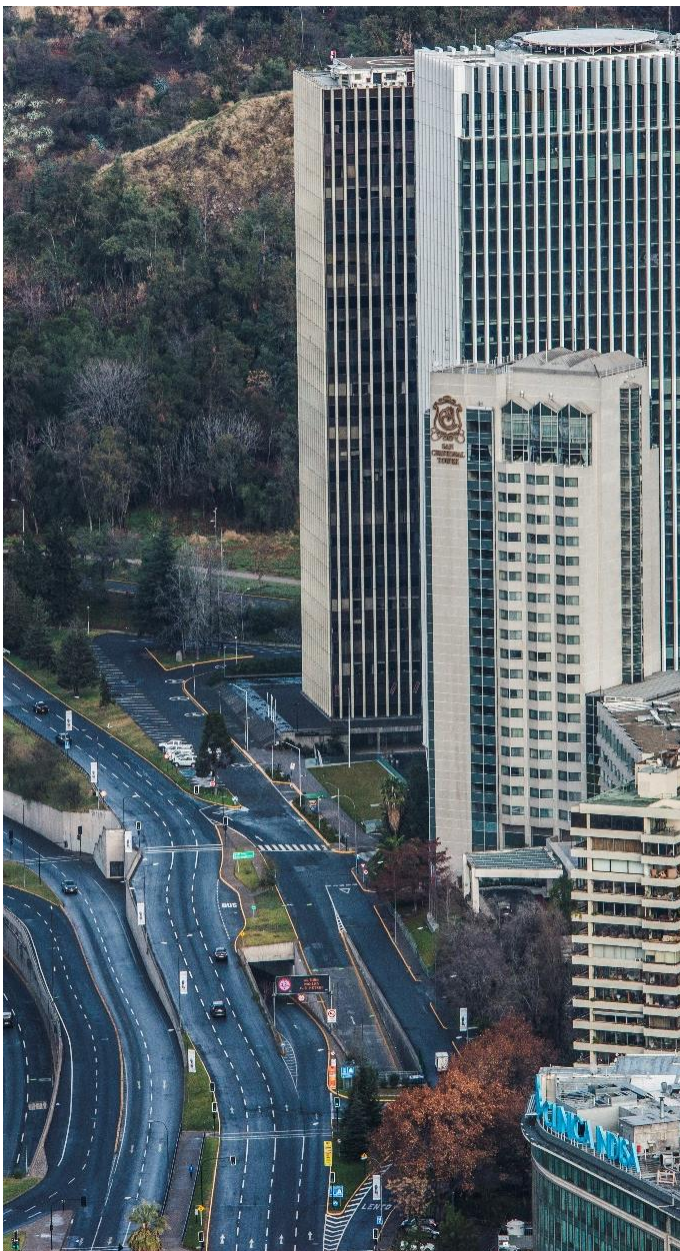
On October 17, 2011, Law No. 20,545 was published in the Official Gazette, extending maternity leave to six months. Said law added an additional “post-natal parenting leave” to the existing maternity leave, with an increase of the leave of 12 or 18 weeks.

One of the innovative elements of this law is related to the transference of parenting leave days to the father, with the ability to transfer up to six weeks of full-time leave or up to 12 weeks of part-time leave. The parent will also be granted labor protection for double the time used for full-time leave, or a maximum of three months for part-time leave.

Another important element contributing to increase “Protections to Parenting” is the expansion of the coverage of the maternity leave and post-natal parenting leave from January 1st, 2013, to all women who, on the sixth week before giving birth, are not currently working (mainly aimed at seasonal workers), with minimum requirements.

As for adopting parents, when the adopted child is under six months old, maternity leave applies according to general regulations. For children older than six months and younger than 18 years old, the adopting parent is entitled to the post-natal parenting leave, with its corresponding benefits.

Employment of expatriates in Chile



Employment of expatriates in Chile

As set forth in article 19 of the Code of Labor, at least 85% of all workers in a company must be Chilean citizens. However, aliens with over five years of residence, those married to Chilean citizens, and specialized technical personnel are not included in said limitation. In addition, this limit does not apply to companies with 25 employees or less.

Any alien worker must be in possession of a resident visa that enables them to perform paid activities in Chile. The most granted work visas in Chile are the “subject to contract” visa, and temporary visa, which last two, and one year, respectively. These may be renewed for equivalent periods, and a permanent residence request may be authorized on their expiration.

Payment of Salaries in Foreign Currency

Residents and foreign companies in Chile may pay salaries in foreign currency to specialized foreign personnel under an employment contract and be exempt from Chilean social security laws.

Partial salary payment outside of Chile

There is no requirement for salaries to be paid in Chile. They may be paid in any part of the World by either the Employer or another party.

However, if the salary is related to activities performed in Chile, it is subject to taxation by Chile, regardless of where it is paid, as it is understood that income comes from a Chilean source.

Income Tax on Income of Aliens

For three years (with possible extension) an alien living in Chile pays, as a general rule, only for the income tax of their activities coming from a Chilean source. By general rule, we mean income from a Chilean source, coming from activities performed in Chile, or from goods located within the country. After the three years (or the extended period, if granted) all income from any part of the World is subject to income tax in Chile.

The tax code defines "resident" as a person staying in Chile, either continuously or not, for a period or periods over 183 days on any 12-month period. Civil law applicable to these matters, on the other hand, defines residence as the real or intended intention of a natural person to stay in the country. It is worth noting that, as a general rule, having a residence in Chile for tax matters implies being subject to income tax over all sources of income from any part of the World. However, the aforementioned exception must be noted.

Employees residing in Chile are subject to Impuesto Único de Segunda Categoría (Second Category Single Tax) for all income from their work. Those not resident in Chile are subject to an income tax of 35%. Income earned in Chile for scientific, cultural or sport-related activities is subject to a preferential rate of 20%, which is lowered to 15% for engineering or technical activities, or for technical or professional activities. This also applies to Chilean nationals who lost their condition of tax residents.

Chilean Social Security Payments

In general, all employees are subject to Chilean social security payments. However, alien technical workers who pay for social security in their own country may choose to be exempt from Chilean social security payments, as long as their system provides a significantly similar protection in case of disease, disability, retirement, or death, and complies with other requirements set forth in Law 18,156.

Chile has entered into Social Security agreements with Argentina, Austria, Australia, Belgium, Brazil, Canada, Colombia, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Luxembourg, the Netherlands, Norway, Paraguay, Portugal, Peru, Quebec, South Korea, Spain, Sweden, Switzerland, the United Kingdom, and the United States. Also, Chile signed the Ibero-American Multilateral Agreement on Social Security. These agreements set exemptions in matters of social security, among other benefits.

Taxes on Additional Benefits

In general, additional benefits are not accepted as deductible expenses for the employer if they are not considered income. If paid benefits are considered as rejected expenses, they are subject to a special 40% rate tax since January 1st, 2017.

Most additional benefits are considered as additional income, taxable for the executive and deductible for the Employer, as long as the general requirements for expense deductibility are followed.

Tax treatment to some of the most common benefits is the following:

- **Allowance for employment abroad:** Treated as additional taxable income if it is to their benefit. If it is to the benefit of the Company, it is considered non-taxable income. The company may deduct them for being income.
- **Housing benefit (or lease):** The SII usually considers this to be additional taxable income. The law just states that housing provided for the benefit of the employer is not taxable for the employee, and it is a deductible expense for the employer.
- **Travels to the Country of Origin of the Worker and their Family:** These are considered as additional taxable income. However, any part of the worker's expenses related to business travels (such as visits to the Main Branch) are considered deductible expenses for the employer, and non-taxable income for the employee.
- **Tax Homologation:** If the tax homologation is related to income from services provided in Chile, it is treated as additional taxable income.

- **Participation in Company Profits:** This is considered additional income. If the paid amount is related to a period of several months, it is assigned to the income of each month and the monthly tax is recalculated.
- **Company Car:** In general, expenses related to company cars (including depreciation) are neither accepted as deductible expenses for the employer, nor considered as taxable income for the employee, unless they have been assigned as the exclusive user of said car. In this case, they may be deducted by the company, as long as the tax corresponding to the employee has been paid. Expenses related to certain vehicles, such as trucks and similar vehicles, are deductible if they are used for company purposes and comply with certain additional requirements.
- **Entertainment Expenses:** If necessary for the business and properly documented, these expenses are deductible for the employer, and their reimbursement is not considered as taxable income for the employee. However, SII usually rejects these expenses, as they are considered unnecessary for business.
- **Severance Payments:** Essentially, they are not considered income, though some limits do apply. However, in general terms, voluntary payments or payments agreed on a contract that are over the legal limit are considered income for the employee. The expense is deductible for the company, as long as the obligation of paying is stated in an individual employment contract, an agreement, or a collective contract, or, if voluntary, it is based on certain universality and uniformity criteria.



Special business or tax incentives



Chilean law provides special incentives for:

- The oil industry.
- Operations in the Iquique, Arica and Punta Arenas free trade zones.
- Operations in Tarapacá, Aysén and Magallanes Regions and in Chiloé Province.
- Exporters.
- The forestry industry.
- Research and development activities.
- Solar thermal systems.
- Investments in the Araucanía region.
- Instant depreciation of 100% of the value of fixed assets.

Oil industry

Companies that sign an oil exploitation agreement can be exempted from the normal tax regime.

Either a reduced substitute tax may be applied, or the taxpayer can choose to apply the normal income tax regime with the benefit of tax invariance. Likewise reductions of the normal income tax rate can be granted, depending on the degree of risk incurred by the contractor. Similar reductions can be granted on taxes, duties and levies on the import of machinery and equipment needed to fulfill the contract.

Foreign nonresident subcontractors are subject to a flat 20% tax on their gross fees. But reductions of this rate may also be established in the operating agreement.

Duty Free zones

A duty free zone is an area of territory that is surrounded by a port or airport that for import tariff purposes is considered to be outside the Chilean territory. Currently, there are duty free zones located in Iquique, Arica and Punta Arenas ports.

Merchandise imported into a duty free zone can be held on deposit, exhibited, uncrated, packaged, labeled, divided, repackaged, or sold within the duty free zone. Also, within the duty free zone, imported goods and raw materials can be assembled, finished, connected, manufactured, or transformed.

Enterprises operating in a duty free zone are granted the following exemptions:

- **First Category Tax:** all operations within the duty free zone are exempt.
- **Value-Added Tax:** all operations within the duty free zone are exempt.
- **Import duties:** foreign goods imported into the duty free zone are exempt.

Sales and transfers of merchandise from a duty free zone to another area of the country are considered to be imports and generate import duty and Value-Added Tax when they are moved out of the duty free zone. However, the Arica and Parinacota region and the Punta Arenas Region are considered duty free extension zones. Goods transferred from the duty free zones to these areas are taxed with a single 0.48% tax, which can be credited against VAT. This tax increases or decreases in proportion to the changes in the average customs duty rate.

In the year 2001, a duty free zone was created in the Antofagasta region for the sale of mining products.

The duty free zone in Arica has benefits and tax incentives for manufactured products and export centers similar to commercial duty free zones. Also, it has a special regime for manufacturing industries to be installed in the area, among other measures whose purpose is to develop the local economy.

Regional incentives

Activities located in the extreme North (Tarapacá Region) and in the extreme South (Aysén and Magallanes Regions) are granted a partial exemption on the personal income tax of employees. A deduction equivalent to that granted to civil servants in the Region is allowed against personal taxable income.

Under Law No. 19,606 ("Ley Austral") and Law No. 19,420 ("Ley Arica"), tax credits are granted for investments in fixed assets made up to December 31, 2025, which may be recovered until 2045.

There are also special tax incentives for business in the Tierra del Fuego and Antarctic Territories.

Effective January 1, 2002, industrial and manufacturing companies based in the Tocopilla Province, who produce supplies parts and pieces for the mining industry have the following benefits:

- A 25-year period exemption for the first Category Income Tax
- Exemption from customs duties on imports of goods related to their business.
- Other free trade zone special regulations.

Export Incentives

The Temporary Admission for Active Improvement regime allows exporters to use foreign raw materials and parts in their manufacturing processes without paying custom duties, provided the finished products are exported within certain time periods.

As exports are not subject to VAT, exporters obtain reimbursement of all input VAT borne on purchases of goods and services relating to their export activities. This reimbursement is also available for companies that transport freight and passengers to and from Chile, supply food and beverages to planes and ships in transit, or render services deemed to be exports by the customs service to non-resident entities.

There is a simplified system for the reimbursement of taxes that affect the cost of materials for minor non-traditional exports. In general terms, this reimbursement ("drawback") is 3% of the value of the exported products. The products excluded from this benefit are detailed in a list that is published no later than March 30 of each year.

Exporters can obtain reimbursement of customs duties paid on imports of raw materials, semi-manufactured products, and parts when these are used in exported products or services.

The exporter must choose between this reimbursement and the "non-traditional exports" drawback when eligible for both benefits.

Research and development activities

Law No. 20,241, published in the Official Gazette on January 19, 2008, and modified in 2012 establishes a tax incentive for private investment in research and development. Corporate taxpayers, who declare their taxes through full accounting records can benefit from this incentive.

In general, the incentive consists of a credit against first category income tax. This credit is equivalent to 35% of all payments related to research and development contracts duly certified by The Corporation for Development and Production (CORFO). The remaining 65% may be reduced as a necessary expense to produce income. These taxpayers must also comply with other requirements established in this law.

Solar thermal systems

According to Law No. 20,365 published in the Official Gazette on August 19, 2009, construction companies will have the right to deduct from the obligatory provisional payments established in the Income Tax Law, a credit equivalent to all or part of the value of the solar thermal systems installed in the real estate they built. On February 5, 2016, Law No. 20,897 came into force, which modifies Law No. 20,365, renewing the validity of the tax exemption for the installation of solar thermal systems for the period 2015 to 2020.

Regime of instantaneous depreciation of fixed assets in Araucania Region

This incentive was implemented by Law No. 21,210 reform that modernizes the tax legislation. It consists of an instantaneous and immediate depreciation of fixed assets in the year in which the use of the asset begins, for the total acquisition cost of the respective asset. Once depreciated, the value of these assets would be CLP 1. This depreciation regime is only available for fixed assets that are installed and used in the production of goods or in the provision of services exclusively in the Araucanía Region.

It must be taken into account that the depreciated assets must remain and be used in the production of goods or in the provision of services in the Araucanía Region for at least 3 years from the investment.

Both accelerated and instantaneous depreciation can only be deducted as an expense for first category tax purposes, that is, at the company level. Consequently, it is not deductible for final tax purposes (additional tax in the case of a foreign shareholder/owner).

Regime of instantaneous depreciation of fixed assets acquired between October 1, 2019 and May 31, 2020

Law No. 21,210 contemplates a temporary regime of instantaneous depreciation of fixed assets acquired between October 1, 2019 and May 31, 2020.

Originally, this regime governed goods acquired until December 31, 2021, but this provision was modified as a result of the measures taken to mitigate the effects of COVID-19.

The regime consists in that those taxpayers who determine their effective income according to complete accounting can instantly depreciate 50% of the value invested in the purchase of new or imported fixed assets, including investments made in construction projects since their use begins. The other 50% of the asset's value can be depreciated under accelerated depreciation rules.

Both accelerated and instantaneous depreciation can only be deducted as an expense for first category tax purposes, that is, at the company level. Consequently, it is not deductible for final tax purposes (additional tax in the case of a foreign shareholder/owner).

Instantaneous depreciation of 100% until December 31, 2022 for fixed assets acquired between June 1, 2020 and December 31, 2022

The instantaneous depreciation regime was modified, as a consequence of COVID-19. Thus, instantaneous depreciation was extended to 100% throughout the country, and for all investments in fixed assets that are made until December 31, 2022. In this way, for tax purposes taxpayers may reduce the total acquisition value of the goods in the same year they are acquired.

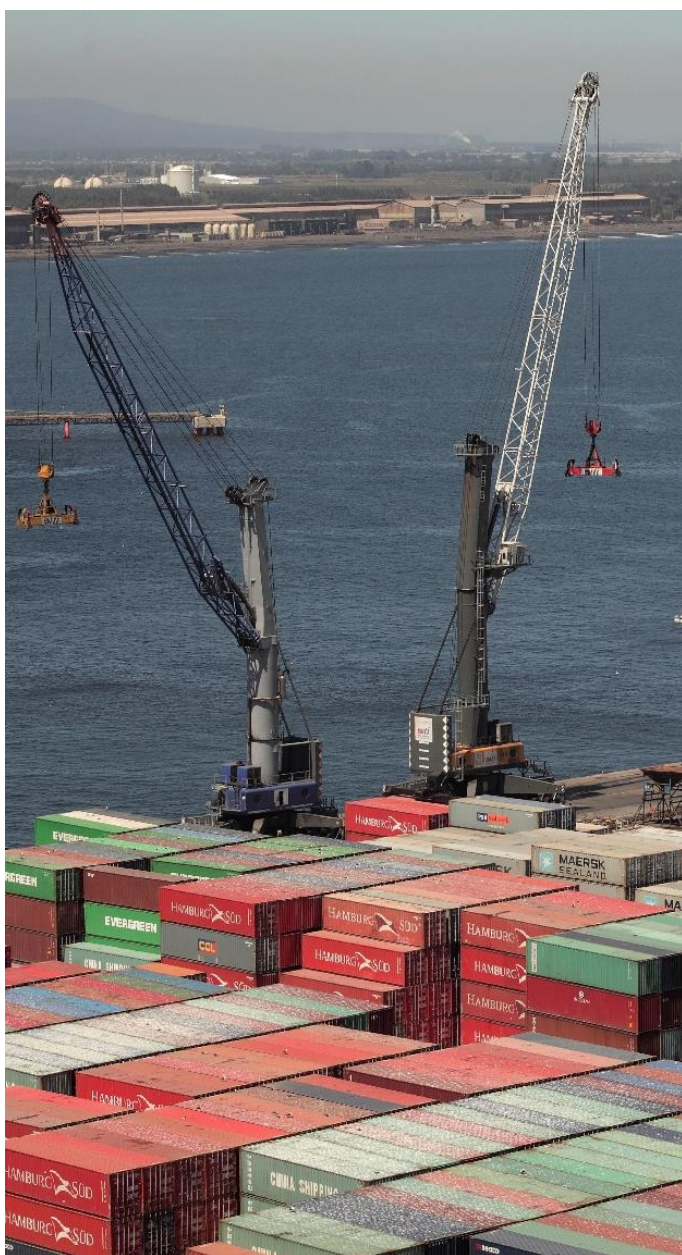
Additionally, an instantaneous amortization regime was incorporated with respect to certain intangible assets protected in accordance with the law (industrial property, copyrights and new plant varieties).

Tax at the time of end of activities

In relation to the tax applicable at the time of the termination of the business with a 35% rate, Law No. 21,210 that modernizes the tax legislation provides that this tax will only be applicable to companies whose partners or shareholders are subject to final taxes.



Accounting and reporting



Administrative formalities that must be met before operations in Chile begin

All individuals or entities that start a business activity in Chile must comply with certain administrative requirements. The principal requirements are:

- **Taxpayer number ("Rol Único Tributario" or "RUT"):** This number must be obtained when the individual or entity is registered with the Internal Revenue Service and no business can operate without a taxpayer number.
- **Declaration of initiation of activities:** this declaration is made to the Internal Revenue Service within the two months following the month that activities start; The declaration must contain a description of the nature and amount of the enterprise's capital.
- **Municipal license:** A separate license must be obtained from the corresponding Municipality for each of the enterprise's establishments, offices, warehouses, etc.; no activity can be started without the applicable license.
- **Sectored permits:** Some businesses require special permits depending on the nature of the activities to be developed, such as: health permits (SNS); environmental permits (SESMA); forestry permits (CONAF); agricultural and livestock permits (SAG); mining permits (SERNAGEOMIN); marine permits (DMM); air navigation permits (DGAC); and telecommunications permits (MTT), among others.

Accounting Requirements

The entity's financial year cannot exceed twelve months and can end on any day chosen by the shareholders. However, for tax purposes, December 31 must be used as the year end date, although the Internal Revenue Service can authorize the use of a June 30 year end date.

In general any business or taxpayer is required to maintain complete accounting records: a cashbook, a journal, a ledger and a balance sheet register, or their equivalents.

However, for certain investments in transferable securities, foreign investors may be relieved of the obligation to keep complete accounts and file annual tax returns.

Companies that operate in duty free zones (Arica, Iquique, and Punta Arenas) and in areas where incentives exist (Tarapacá, Aysén and Magallanes Regions and in Chiloe Province) must keep separate accounting records for these operations.

The accounting entries must be kept in accordance with IFRS principles.

Independent statutory audits

In general, only certain types of entities are required to appoint independent auditors. Such entities include banks, financial institutions, insurance companies, pension plans, publicly-traded corporations, and cooperatives. Almost all other entities are usually free to appoint auditors or to establish other means of control.

Public availability of financial statements

Certain entities (principally banks, financial institutions, insurance companies, pension plans, and publicly-traded corporations) are required to file quarterly and annual financial statements with the appropriate regulatory agency (Superintendency). These statements are publicly available.

In addition, the annual financial statements filed in the Superintendency and those of an agency or branch of a foreign corporation must be published in a newspaper.

Other entities are not required to file financial statements with any Government agency.

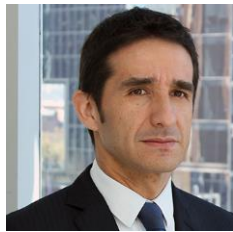
Contacts



Hugo Hurtado

hhurtado@deloitte.com

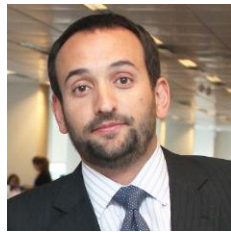
+56 227 298 126



Eduardo Vargas

edvargas@deloitte.com

+56 227 298 109



Alejandro Paredes

aparedes@deloitte.com

+56 227 298 216



Ignacio Concha

iconchav@deloitte.com

+56 227 297 048



Vanesa Lanciotti

vlanciotti@deloitte.com

+56 227 297 356

Photo credits

Page 01: Illustration by Alejandra Alfonso - Deloitte Chile Design Team

Page 05: Photograph by Diego Fontecilla - Fundación Imagen de Chile

Page 07: Photograph by Felipe Cantillana - Fundación Imagen de Chile

Page 11: Photograph by Amelia Ortúzar - Fundación Imagen de Chile

Page 13: Photograph by Felipe Cantillana - Fundación Imagen de Chile

Page 15: Photograph by Juan Ernesto Jaeger - Fundación Imagen de Chile

Page 24: Photograph by Diego Fontecilla - Fundación Imagen de Chile

Page 26: Photograph of Image Bank of Sernatur- Fundación Imagen de Chile

Page 27: Photograph by Alfredo Escobar - Fundación Imagen de Chile

Page 32: Photograph by María José Pedraza - Fundación Imagen de Chile

Page 33: Photograph by Cristóbal Correa - Fundación Imagen de Chile

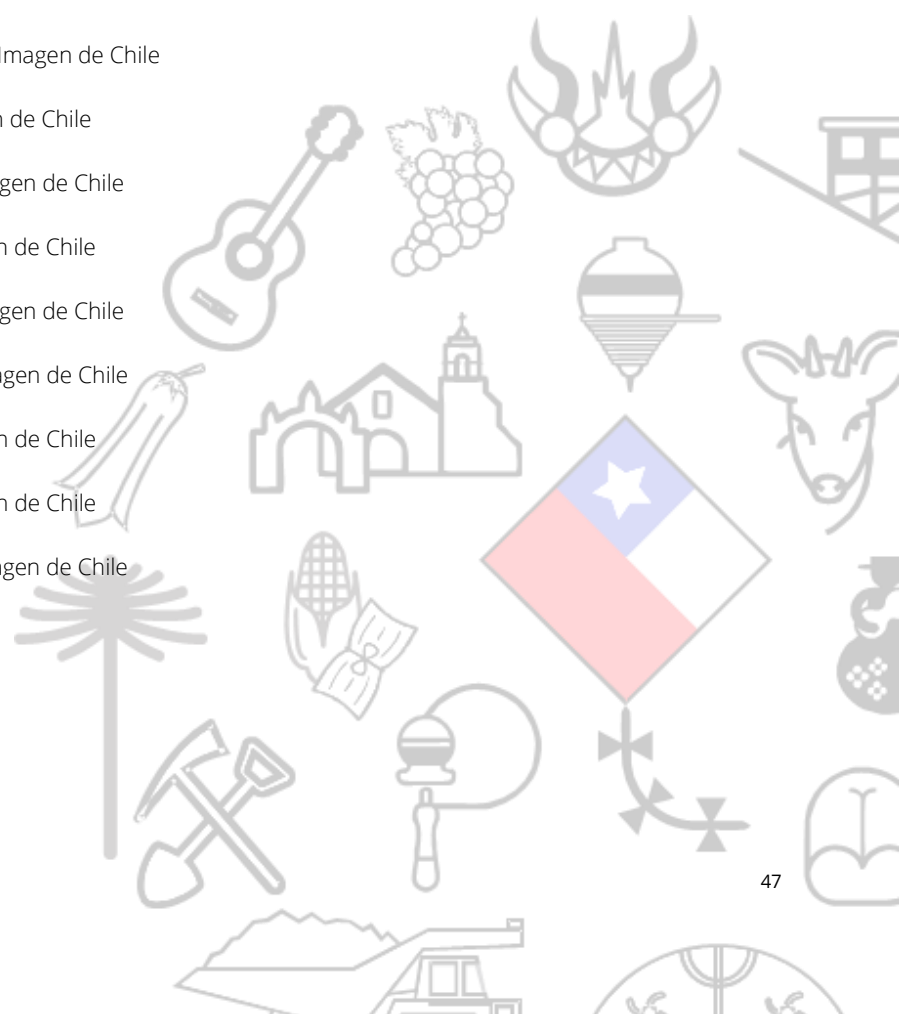
Page 37: Photograph by María José Pedraza - Fundación Imagen de Chile

Page 39: Photograph by Juan Ernesto Jaeger - Fundación Imagen de Chile

Page 40: Photograph by Felipe Cantillana - Fundación Imagen de Chile

Page 43: Photograph by Felipe Cantillana - Fundación Imagen de Chile

Page 44: Photograph by Roderik Henderson - Fundación Imagen de Chile



Rosario Norte 407
Las Condes, Santiago
Chile
Phone: +56 227 297 000
Fax: +56 223 749 177
deloittechile@deloitte.com

Av. Grecia 860
3rd floor
Antofagasta
Chile
Phone: +56 552 449 660
Fax: +56 552 449 662
antofagasta@deloitte.com

Alvares 646
Office 906
Viña del Mar
Chile
Phone: +56 322 882 026
Fax: +56 322 975 625
vregionchile@deloitte.com

Chacabuco 485
7th floor
Concepción
Chile
Phone: +56 412 914 055
Fax: +56 412 914 066
concepcionchile@deloitte.com

Quillota 175
Office 1107
Puerto Montt
Chile
Phone: +56 652 268 600
Fax: +56 652 288 600
puertomontt@deloitte.com



www.deloitte.cl

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte's approximately 260,000 professionals are committed to becoming the standard of excellence.

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, any of its member firms or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Deloitte © refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www2.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte Touche Tohmatsu Limited is a private company limited by guarantee incorporated in England & Wales under company number 07271800, and its registered office is Hill House, 1 Little New Street, London, EC4A 3TR, United Kingdom.

© 2020 Deloitte. All rights reserved.