

HOW TO INVEST IN CHILE



STEP-BY-STEP GUIDE
for FOREIGN INVESTORS



www.investchile.gob.cl



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Step-by-step Guide for Foreign Investors

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The information contained in this Guide is general in nature and purely referential. It does not replace the interpretation provided by government agencies with regard to matters that fall under their jurisdiction regarding specific sectoral regulations. Consequently, the investor is fully responsible for obtaining all the detailed information they require regarding their topic of interest from the associated agency.

The State of Chile is not responsible for the investor's interpretation of the general and merely referential information provided in this Guide, nor for the information in documents received at meetings, related to matters within the jurisdiction of the Foreign Investment Promotion Agency (Agencia de Promoción de la Inversión Extranjera) or other governmental agencies, nor for the investor's actions by virtue of such interpretation.

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InvestChile

AGENCIA DE PROMOCIÓN DE LA INVERSIÓN EXTRANJERA

HOW TO INVEST IN CHILE

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CHAPTER I: FOREIGN INVESTMENT PROTECTION

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FOREIGN INVESTMENT PROTECTION

1. International Law

Foreign investors in Chile enjoy the security and protection afforded by Chilean laws and international norms. They are also protected by a network of international, bilateral and multilateral treaties, whose rules are mandatory and protect the rights of those who invest in Chile.

As of January 1, 2021, Chile has signed Free Trade Agreements with 29 countries, Trade Protocols with the Pacific Alliance, Economic Complementation Agreements with Bolivia, Cuba, Ecuador, Mercosur, Peru and Venezuela, Comprehensive Economic Partnership Agreements with Indonesia, a Partial Scope Agreement with India, and other agreements.

This network of international treaties provides foreign investors with international protection standards, such as:

- The right to fair and equitable treatment;
- The right to receive the same treatment as Chilean investors;
- The right to compensation in the event of expropriation, including measures of indirect expropriation;
- The right to the free transfer of capital and the income it produces;
- The right to recourse to an international tribunal in the case of a dispute with the state (Washington Convention of 1965).

Further information is available at: <https://www.subrei.gob.cl/acuerdos-comerciales/acuerdos-comerciales-vigentes>

2. National Law (Law 20,848 of 2015)

Law 20,848 of 2015 issued by the Finance Ministry establishes the framework for Foreign Direct Investment (FDI). This regime applies to foreign individuals and legal entities who are neither resident nor domiciled in Chile, but who transfer capital to Chile. This law establishes the following founding principles:

- Economic freedom
- Non-discretionary procedures
- No arbitrary discrimination

3. Economic Freedom

In general, in Chile, there are no economic activities reserved for the Chilean State or for Chilean individuals or legal entities. As such, private parties can participate in all economic activities and up to 100% of a company's capital can be foreign.

Notwithstanding the general principles of economic freedom, non-discrimination and the right of equal treatment with nationals enjoyed by foreign investors, there are some exceptional situations that are described below.

a) Border zones

Real estate declared a "border zone" and located on the Chilean border, that is, up to a distance of ten kilometers from the land border and five kilometers from the coast, cannot be acquired by individuals who are nationals of a neighboring country, nor by legal persons whose main office is located in a neighboring country, or whose capital is 40% or more owned by or it's controlled by nationals of a neighboring country, except when authorized by the President of Chile through a supreme decree founded on reasons of national interest.

"State-owned land" located up to 10 kilometers from Chile's borders may only be acquired, leased or owned under any other title by Chilean individuals or legal entities. "State-owned land" is land located up to 5 kilometers from its coasts, measured from the highest tide line. However, foreigners domiciled in Chile may establish rights over such lands after receiving a favorable report from the Undersecretariat for the Navy (Subsecretaría de Marina) at the National Defense Ministry.

Further information is available at: www.difrol.cl

b) Aquaculture and fisheries

Only Chilean individuals or legal entities incorporated under Chilean law, and foreigners with permanent residence in Chile, may own a permit to capture and harvest hydro-biological species.

Only Chilean vessels may fish in its inland waters, in its territorial seas, or its Exclusive Economic Zone (EEZ), which extends 200 miles from the coast.

Industrial fishing is subject to prior registration of the vessel in Chile. Only a Chilean individual or legal entity incorporated under Chilean law may register a vessel in Chile. Legal

entities must be incorporated with their main address and its real and effective headquarters in Chile, and their chairperson, CEO and the majority of their directors or managers must be Chilean individuals.

Fishing vessels specifically authorized by the Maritime Authority, in the cases indicated by law due to reciprocity granted to Chilean vessels by other states, shall not be subject to these requirements, and they shall be governed by conditions equivalent to those granted to Chilean vessels by the vessel's state of origin.

c) Hydrocarbons, lithium and deposits under Chilean waters

Liquid or gaseous hydrocarbons, lithium, deposits of any kind under maritime waters subject to Chilean jurisdiction, or any deposits located fully or partially in areas determined as important to national security with mining effects, are not susceptible to a mining concession.

d) Natural atomic materials

Natural atomic materials may not be the object of any legal transactions, unless those transactions are executed by the Chilean Nuclear Energy Commission (Comisión Chilena de Energía Nuclear or CCHEN), or with its prior authorization.

e) Nuclear energy

Nuclear energy may only be produced for peaceful purposes by the Chilean Nuclear Energy Commission or with its authorization, in collaboration with third parties.

f) Maritime cabotage

Maritime, river or lake transportation of passengers and cargo between points in Chile, or between them and naval property within Chilean territorial waters, or Chile's Exclusive Economic Zone, is restricted to Chilean vessels.

However, foreign merchant vessels may participate in cabotage for cargo volumes exceeding 900 tons, subject to a public tender called by the interested party. If cargo volumes are equal to or less than 900 tons and Chilean vessels are not available, the Maritime Authority can authorize the use of foreign merchant vessels.

g) Telecommunications, radio and television broadcasting

Only legal entities incorporated and domiciled in Chile may own a telecommunications or broadcasting concession. Their chairpersons, managers, administrators and legal representatives must be Chilean and must not have been convicted of a crime punishable by imprisonment. Foreigners may be directors, provided that they do not constitute the majority of the board.

Only public or private legal entities incorporated and domiciled in Chile may own or use a free reception television broadcasting concession. Their chairpersons, directors, managers, administrators and legal representatives must be Chilean and must not have been convicted of a crime punishable by imprisonment.

The capital of a legal entity owning such a concession may be 100% foreign, despite the requirement for its directors and legal representatives to be Chilean.

4. Rights Granted by Law 20,848

- Right to participate in the formal foreign exchange market to settle the foreign currencies that form its investment and to repatriate capital and profits, in accordance with the regulations issued by the Chilean Central Bank. The exchange rate for the settlement or for obtaining the foreign currency in the formal foreign exchange market will be freely agreed by the parties involved.
- Right to remit the capital it invested and the profits produced by its investments, after its tax obligations have been met, in accordance with Chilean legislation and the regulations issued by the Chilean Central Bank.
- Right to request exemption from value added tax (VAT) when importing capital goods, in accordance with the provisions of number 10, letter B of Article 12 of Decree Law 825 of 1974 issued by the Finance Ministry.
- Right to request a Foreign Investor's Certificate. This is a public instrument granted by the State of Chile through InvestChile, which recognizes the requester as a Foreign Investor and grants them legal benefits. This Certificate is voluntary and may be requested by those who meet the following conditions:
 - * Individuals or legal entities incorporated abroad, who are not resident or domiciled in Chile, and who transfer capital to Chile under the conditions described by Law 20,848;
 - * Foreign capital or assets equal to or greater than US\$ 5 million or its equivalent in other freely convertible currencies that are owned or controlled by a foreign investor and transferred to Chile. The transfer can use any of the investment channels described by law, or be by acquiring assets or participating in the share capital of the receiving company, incorporated in Chile according to Chilean law, giving the investor control of at least 10% of the voting rights, or an equivalent percent interest in the share capital in that company.

- * Verify the investment in Chile starting in 2016 and for the amounts stated; and
- * Submit a detailed description of the investment project, including its value, purpose and nature. Such information should comply with the form and conditions determined by InvestChile and should also be supported by documentation that verifies their residence or domicile abroad, among other information.

The deadline for granting a Foreign Investor Certificate is 15 working days after the application is received, or after the date that all the required supporting documentation is received. The application form is available at www.investchile.gob.cl or at InvestChile's offices.

Capital contributions

Capital may be invested in any of the following ways:

- Freely convertible foreign currency.
- Imported physical goods, in all their forms or states.
- Reinvested profits.
- Capitalized loans.
- Technology, in its various forms, which can be capitalized.
- Loans associated with the foreign investment from related companies.

Foreign exchange market

Foreign investments equal to or greater than US\$10,000 or its equivalent in other freely convertible foreign currencies must be invested through an entity authorized to operate in the formal foreign exchange market. These include commercial banks and some foreign exchange businesses specially authorized by the Chilean Central Bank, and the investor may freely choose their preferred authorized entity to perform the transaction.

Chilean Central Bank

The Chilean Central Bank is governed by Law 18,840 of 1989 and its subsequent amendments. Its purpose is to ensure that the Chilean peso remains stable and that internal and external payments operate normally, and to promote the stability and efficiency of the financial system, thus creating a predictable environment for decision making, which stabilizes economic cycles and lays the foundation for sustained growth in Chile.

Chilean Central Bank regulation is based on the general principle of freedom of foreign exchange operations, which implies that any person may freely carry out international

exchange transactions. Their features and procedures are described in the Compendium of International Foreign Exchange Regulations (Compendio de Normas de Cambios Internacionales or CNCI) issued by the Chilean Central Bank.

Chapter XIV of the Compendium of International Foreign Exchange Regulations issued by the Chilean Central Bank: This chapter includes the general foreign exchange system that receives foreign capital into Chile, the administrative registration system that applies to loans, deposits, investments or capital contributions from abroad, when they exceed US\$ 10,000 or its equivalent in other freely convertible currencies.

Transfers of foreign currency into Chile in connection with the transactions described in Chapter XIV of the CNCI must be carried out through the formal foreign exchange market, which is comprised of banks and foreign exchange businesses authorized by the Chilean Central Bank. However, these transactions may also be carried out without transferring foreign currency to Chile, in which case the investor or the recipient of the investment must report them directly to the Chilean Central Bank.

Further information regarding the Chilean Central Bank is available at: <https://bit.ly/362gLXD>

Financial Market Commission

The regulations governing the Financial Market Commission (Comisión para el Mercado Financiero or CMF) are established in Law 21,000 of 2017. This institution is responsible for supervising and monitoring banks, branches of foreign banks, branches of local banks abroad, representatives of foreign banks, Banco Estado de Chile, securities markets entities, insurance entities, financial institutions and other entities established by law.

The full list of entities supervised by the CMF is available at: <http://www.cmfchile.cl>



CHAPTER II: INVESTMENT INCENTIVES

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The State of Chile supports production, entrepreneurship, innovation and competition by all companies, regardless of their origin, through special regulations and benefits that are available to companies legally incorporated in Chile.

A Chilean company's capital can be entirely foreign.

1. Remote Areas Act (Law 20,655, amended in 2013).

The purpose of this law is to accelerate the development of certain Chilean regions by establishing special incentives for these areas, extending the term of certain benefits and introducing improvements to existing benefits. This law applies to the following areas:

- The Arica y Parinacota and Tarapacá regions in the extreme north of Chile.
- The Chiloé and Palena Provinces in the Los Lagos Region, in southern Chile.
- The Aysén and Magallanes regions, also in southern Chile

The Remote Areas Act includes the following benefits:

a) Investment tax credits

This benefit is a tax credit for a percentage of the amount invested in fixed physical assets in the region, such as buildings, machinery and equipment directly related to producing goods or providing services and other assets. The tax credit is deducted from corporate income tax payable by the company. This percentage is a tax credit that varies between 10% and 40%, depending on the specific location of the investment, its value and the corresponding business.

b) Labor costs bonus

This consists in a payment to the employer of an amount equivalent to 17% of the taxable remuneration of employees that permanently reside and work in the:

- Tarapacá Region
- Aysén Region
- Magallanes Region
- Chiloé and Palena provinces

This benefit is indexed to the Consumer Price Index (CPI).

2. Investment Subsidy (D.F.L. 15 of 1981)

This is a bonus for productive investments by small and medium-size investors whose annual sales do not exceed UF 40,000 (Unidades de Fomento or UF), equivalent to 20% of the investment. The subsidy can be requested at offices of the Chilean Economic Development Agency (Corporación de Fomento de la Producción or CORFO) or at the corresponding provincial governor's office.

Further information is available at: www.zonasextremas.cl

3. Free Trade Zones

Free trade zones are defined physical places located in the Arica y Parinacota, Tarapacá and Magallanes regions, where goods are exempt from customs duties and taxes. Accordingly, imports do not pay duties, and sales to other Free Trade Zones and abroad are exempt from Value Added Tax (VAT). Annual profits from businesses in Free Trade Zones or Bonded Warehouses are exempt from corporate income tax.

Benefits similar to Free Trade Zone benefits also apply to businesses in the Tocopilla, Isla Navarino and Tierra del Fuego provinces.

Further information is available at:

www.zofri.cl

www.zonaaustral.cl

www.sii.cl/contribuyentes/actividades_especiales/zonas_francas.pdf

4. Research and Development (R&D)

Law 20,241 of 2008 establishes a tax benefit for investment in research and development (R&D). Companies that directly invest in R&D, or with the support of third parties, or those contracting the services of a specialized center that is registered with the Chilean Economic Development Agency, will be entitled to a tax credit of 35% of the resources allocated to R&D, which can be deducted from their corporate income tax.

Furthermore, the certified remaining 65% of the company's R&D investment may be treated as an expense to produce taxable income, regardless of its business.

Application and processing of incentives. How to apply?

The terms and conditions of the tax incentive program for private investment in research and development and their appendices describe the procedures and the full list of documents required to apply.

Further information is available at: <http://bit.ly/2jfAlAZ>

National network for the promotion of entrepreneurship, innovation and research

Companies operating in Chile can access the national network for the promotion of entrepreneurship, innovation and research, which comprises various governmental agencies that offer support programs, as shown in the following table:

Structure of the National Network for the Promotion of Entrepreneurship, Innovation and Research

Institution	Mission	Contact
CORFO Chilean Economic Development Agency (Corporación de Fomento de la Producción)	Promote Chile's competitiveness and production diversification by fostering investment, innovation and entrepreneurship, and by strengthening its human capital and technological capabilities to achieve sustainable and territorially balanced development.	Web: www.corfo.cl Address: Moneda 921, Santiago, Chile. Telephone: 56-2-631 8200
SERCOTEC Technical Cooperation Service (Servicio de Cooperación Técnica)	Promote and support initiatives to improve the competitiveness of micro and small enterprises, and strengthen the management capacity of entrepreneurs.	Web: www.sercotec.cl Address: Huérfanos 1117, Floor 9, Santiago, Chile Telephone: 56-2-675 4300
CONICYT National Commission for Scientific and Technological Research (Comisión Nacional de Investigación Científica y Tecnológica)	Advise the government regarding scientific development matters. It focuses on two strategic pillars, which are promoting the formation of human capital and strengthening Chile's scientific and technological base.	Web: www.conicyt.cl Address: Canadá 308, Providencia, Santiago, Chile Telephone: 56-2-365 4400
PROCHILE Export Promotion Directorate (Dirección de Promoción de Exportaciones)	Contribute to Chile's economic development by promoting Chile abroad and encouraging Chilean companies to sustainably internationalize their organizations.	Web: www.prochile.cl Address: Teatinos 180, Santiago, Chile. Telephone: 56-2-827 5100
SENCE National Training and Employment Service (Servicio Nacional de Capacitación y Empleo)	Boost the competitiveness of companies and the employability of individuals by applying public policies and instruments to the training and labor intermediation market that promote a process of lifelong learning.	Web: www.sence.cl Address: Huérfanos 1273, Santiago, Chile. Telephone: 56-2-800 80 10 30
FIA Foundation for Farming Innovation (Fundación para la Innovación Agraria)	Promote innovation in the agri-food and forestry sector and strengthen their capacities and entrepreneurship, in order to contribute to sustainable development and the competitiveness of Chile and its regions.	Web: www.fia.cl Address: Loreley 1582, La Reina, Santiago, Chile. Telephone: 56-2-431 3000

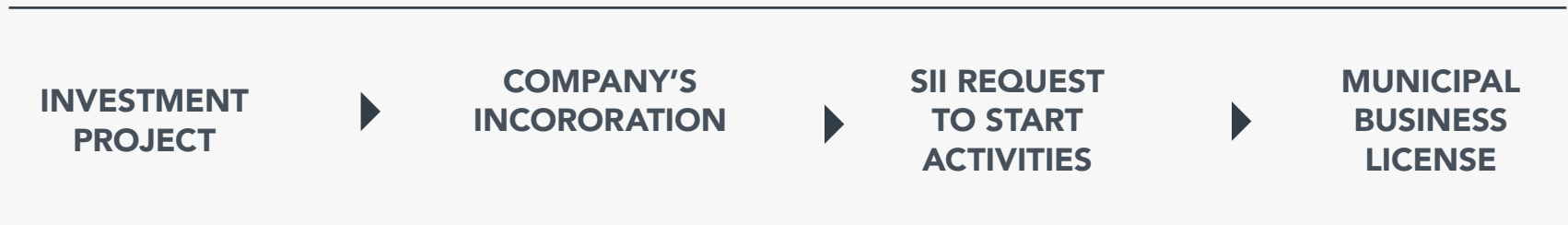
Further information is available at: www.hacienda.cl, www.sii.cl, www.corfo.cl, www.aduana.cl



CHAPTER III: SETTING UP A COMPANY IN CHILE

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1. Stages to Set up a Company



2. Companies Incorporation

Chilean law provides for several possible structures for the incorporation of companies and the choice of the most appropriate will depend on the investor's business strategy and the capital contribution, among other factors.

Companies must generally be incorporated by public deed. In some cases, however, this can be done by private deed, and the signatures of the parties involved must be authorized by a notary public.

The articles of incorporation establish the type of company, its line of business, its initial partners or shareholders and their respective capital contributions, how they will share in the profits, how they will respond to losses and other matters. An abstract of the deed must be published in the Official Gazette (Diario Oficial) and registered in the Business Registry (Registro de Comercio) of the corresponding Real Estate Registrar (Conservador de Bienes Raíces).

The most commonly used company structures for foreign investment in Chile are as follows:

- Individual limited liability company (EIRL)
- Limited liability company (Ltd)
- Publicly traded or closed stock corporation (SA)
- Company limited by shares (SpA)

Individual Limited Liability Company (Empresa Individual de Responsabilidad Limitada or EIRL)

This type of company is governed by Law 19,857 of 2003. Its principal features are as follows:

- The company is incorporated by a single individual, who

creates a legal entity to operate under his own name, but separates his personal assets from those of the company. The owner is, therefore, liable up to the value of his capital contributions to the company, and the company is liable up to the value of all its assets.

- An EIRL can undertake all kinds of civil and commercial activities, except those restricted to corporations by law.

- This company can be incorporated by public deed, or electronically using the "Your company in one day" (Tu Empresa en un Día) web site, at no cost for small companies. The name of the company must always include the name of the owner or a trading name that refers to its corporate purpose and include the expression "Empresa Individual de Responsabilidad Limitada" or the acronym "E.I.R.L."

Further information is available at: http://www.sii.cl/contribuyentes/contribuyentes_individuales/empresa_individual_resltda.htm

Limited Liability Company

This company is governed by Law 3,918, but also by rules contained in the Commerce and Civil Code. Its principal features are as follows:

- It is incorporated by public deed.
- It must have a minimum of two partners and a maximum of 50, who are financially liable up to the amount of their respective contributions, unless a higher amount has been agreed in the bylaws.
- The partners may be Chilean or foreign individuals or legal entities, who freely agree on the purpose, management and control of the company.
- The legal name of the company may contain the name of

one or more partners, or refer to the purpose of the company and must always include the word “Limitada”, without which the partners will be jointly and severally liable for the company’s obligations.

- An abstract of its articles of incorporation must be registered in the Business Registry of the Real Estate Registrar of its registered office , and published in the Official Gazette within 60 days.

Publicly traded or closed stock Corporation

Publicly traded or closed corporations are governed by Law 18,046. The essential feature of these companies is the amount of their capital, which is normally comprised of contributions from a number of shareholders, who are liable only up to the amount of their respective contributions.

Its principal features are as follows:

- It is incorporated by a public deed that describes its shareholders, capital, purpose, duration, management, distribution of profits and other matters.
- An abstract of its articles of incorporation must be published in the Official Gazette within 60 days of its incorporation.
- Its share capital must be fully subscribed and paid within three years of formation. Otherwise, its share capital will be automatically reduced to the amount effectively subscribed and paid.
- It is managed by a Board of Directors that must have a minimum of three directors, who are essentially removable and make decisions by majority vote.
- The corporate name may contain the name of one or more shareholders, or a trading name, followed by the letters S.A.

Types of corporations:

• Publicly traded

These are corporations that trade their shares on the stock exchange, which legally or voluntarily register their shares on the Securities Register kept by the Financial Market Commission (Comisión Para el Mercado Financiero or CMF), and are supervised by said Commission.

• Closed

These are corporations whose shares are not traded on the stock exchange. They must be registered in the Business Registry of the Real Estate Registrar, corresponding to its office within 60 days of their incorporation.

• Company Limited by Shares (SpA)

This company combines features of a corporation and a limited liability company. It is governed by its articles of incorporation, by Articles 424 et. seq. of the Code of Commerce, supplemented by the rules governing privately held corporations. Its principal features are as follows:

- It can be incorporated by one or more persons.
- Its capital is divided into shares.
- It can be incorporated by public or private deed, in which case the signatures must be authorized by a notary public and the document notarized through electronically through the “Your company in one day” web site, at no cost for small companies.
- An abstract of its articles of incorporation must be published in the Official Gazette within the month after its incorporation, and registered in the Business Registry of the Real Estate Registrar for its address.
- A shareholder registry must be kept.

Protocolization means the submission of the documents required to incorporate the company at the notary’s office. These documents are: its articles of incorporation, a copy of the abstract, a copy of the Official Gazette publication and a copy of its registration in the Business Registry).

Foreign Company Agency

This is a company formed by foreign individuals without residence or domicile in Chile, or by companies or legal entities incorporated outside Chile, which is governed by Chilean law and domiciled in Chile. Regardless of its formation, the company must be permanently established in Chile through a branch, an office, an agent or representative.

The formation of an agency or subsidiary in Chile requires:

- Appointment of a legal representative in Chile to establish the branch or subsidiary in Chile; and
- Approval, legalization, translation and notarization of any corporate documents issued abroad.

A foreign company wishing to establish an agency must act through its agent or representative, who must notarize the information that verifies that the company is legally incorporated in accordance with the laws of its country of origin. It must provide a certificate that verifies that it has not been terminated (a certificate of good standing or certificate of incorporation), and a certified copy of the company’s articles of incorporation.

3. Opening a Checking Account

Commercial banks are free to establish the requirements they deem pertinent to open a checking account. However, the requirements usually requested are as follows:

Individuals

- Proof of identity using a Chilean identity card.
- Recent passport size photograph.
- Right thumb print in the bank's personal file.
- Bank forms to be completed by the applicant.
- Registration of the applicant's signature.
- Information related to the business and its solvency that the bank deems necessary.
- Registration of an address in Chile.
- Signature on a contract containing the general terms and conditions for a checking account.

Legal entities

- Verification that the company is legally incorporated and that its representatives have sufficient and valid powers of attorney.
- Proof of identity using the company's Tax Number.
- The same requirements for individuals, regarding registering their identity, photograph, fingerprint and signature, apply to the legal representatives who open a checking account on behalf of legal entities.
- The requirements regarding bank reports, address and contract also apply to legal entities.

Opening a Checking Account

Procedure	Cost	Place
Apply for a Tax Number (individual or legal entity)	Zero	The office corresponding to their address in Chile. If not a resident, then at the office corresponding to the address of their representative.
Public deed and notarization	Variable cost according to the company type and the associated fees.	Notary
Registration in the Business Registry of the Real Estate Registrar	Base value of Ch\$5,500, plus 0.2% of its share capital.	Real Estate Registrar
Publication in the Official Gazette	One UTM*, or zero for companies with share capital of less than UF 5,000.	Official Gazette
Procedures with the IRS	Zero	Office that falls within its address jurisdiction.
Municipal business license	The annual value is between Ch\$2.5 and Ch\$5 for each UF 1,000 of taxable equity, subject to a maximum of UTM 8,000 depending on the municipality and the business*.	Business License Department for each municipality
Other permits	Variable, depending on the business.	Institution responsible for the permit or procedure.

Further information is available at : www.sii.cl

DURING 2020, 158,586 NEW COMPANIES WERE SET UP ELECTRONICALLY IN CHILE, 14.4% MORE THAN IN 2019 AND THE HIGHEST NUMBER SINCE THE SYSTEM HAS BEEN IN PLACE.



ECONOMY MINISTRY



CHAPTER IV: THE TAX SYSTEM

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The Servicio de Impuestos Internos (SII) is the Chilean tax authority. A brief explanation of the Chilean tax system is as follows.

1. General Principles

Individuals domiciled or resident in Chile are taxed on their worldwide income, that is, income arising both within and outside Chile. However, an individual taking up domicile or residency in Chile is taxed only on Chilean source income for the first three years.

Individuals without domicile or residence in Chile must pay taxes on income arising from a Chilean source.

An individual is considered as domiciled in Chile if it can be assumed that they intend to remain in Chile permanently, and as a resident if they stay in Chile for a period or periods that exceed 183 days in total within any twelve month period. A legal entity is domiciled in Chile if it is incorporated in Chile.

The absence of residence in Chile for tax purposes does not cause domicile in Chile to be lost, if the person directly or indirectly retains their principal place of business in Chile.

Chilean-source income is derived from:

- Assets located within Chile.
- Businesses operated in Chile, regardless of the taxpayer's domicile or residence.
- Royalties and rights for trademark use.
- Other similar benefits from the use, enjoyment or exploitation in Chile of industrial or intellectual property.

2. Foreigners and Chileans Without Domicile or Residence in Chile

• Who are they?

An individual's residence determines whether they are either a foreigner or Chilean. The concepts of "residence" and "domicile" are used to define the tax obligations of each individual:

- *"Resident"*: means any individual who resides in Chile for periods that exceed 183 days in total within any twelve month period.

- *"Domicile"* means residence, and the actual or assumed intention to reside in Chile. The definition of "domicile" does not depend on the amount of time that the foreigner resides in Chile, but depends upon circumstances that indicate domicile. For example, after entering the country the individual has rented or acquired a home, or their children study in Chilean schools or they have a Chilean employment contract.

Further information is available at: http://www.sii.cl/contribuyentes/contribuyentes_individuales/chilenos_extranjero.pdf

3. Income Tax

Income tax is established by Decree Law 824 of 1974. It is a direct tax levied on personal income on a net basis and is generally paid annually based on an income tax return filed in April.

Income tax is levied on various sources of income at a range of rates:

- Businesses are subject to corporate income tax (*Impuesto de Primera Categoría*).
- Remuneration is subject to employee income tax (*Impuesto de Segundo Categoría*).
- General income received by an individual domiciled or resident in Chile is subject to overall complementary tax (*Impuesto Global Complementario*).
- Income received in Chile by a non-resident or non-domiciled individual is subject to withholding tax (*Impuesto Adicional*).

Both *overall complementary tax* and *withholding tax* are final taxes.

Chilean corporate income tax generates a tax credit that can be offset against these final taxes. The Chilean tax system recognizes taxes on business income when calculating the tax payable on business income distributed to final taxpayers, in order to avoid domestic double taxation. The tax credit percentage will depend on the tax system chosen, as described below.

• Corporate Income Tax

This tax is levied on income from capital and from commercial, industrial, mining and other companies. It is calculated on income accrued or received less expenses. Returns must be filed annually in April for all the profits of the previous year.

The taxpayer can choose between three tax regimes, which are: the general regime (also called the semi-integrated regime), the general pro-SME regime and the transparent pro-SME regime. (fig.1)

Tax Regime	Rate
General Regime (semi-integrated): A 65% tax credit offsets final taxes.	27%
General Pro-SME Regime: A 100% tax credit offsets final taxes.	25%
Transparent Pro-SME Regime: SMEs are exempt from corporate income tax and owners are levied with final taxes	Not applicable

General Regime (semi-integrated)

This is a general tax regime that applies to all taxpayers whose income and capital mean they cannot be classified as an SME. It applies to large companies that calculate their taxable income according to the rules described in Articles 29 to 33 of Income Tax Act.

They are subject to tax at 27% of their net taxable income, which includes remittances, withdrawals and effective distributions. A partial corporate tax credit of 65% can be offset against the final taxes levied on individual taxpayers. One exception is residents of a country with a double taxation treaty with Chile, as they are entitled to a corporate tax credit of 100%. All taxpayers can choose this regime. However, it is intended for large companies, as full accounting is required.

General Pro-SME Regime

Taxpayers under this regime are taxed at 25% of their net taxable income, and a tax credit of 100% can be offset against final taxes. It applies to micro, small and medium-sized enterprises whose average gross sales for the last three years do not exceed UF 75,000. This limit may be exceeded once by up to UF 85,000.

Furthermore, this regime has a ceiling of 35% of the income described in number 1 and 2 of Article 20 of the Income Tax Act except for agricultural real estate, and income from joint ventures and rights, shares or units in investment funds.

Full accounting is generally required under this regime, but simplified accounting can be selected for specific cases.

Transparent Pro-SME Regime

These companies are exempt from corporate income tax and their owners are subject to final taxes based on the company’s net taxable income, in proportion to their percent interest in the company’s profits or capital, as appropriate.

This regime is subject to the same requirements as the general Pro-SME regime, and the company’s owners must be subject to final taxes, such as overall complementary tax or additional tax.

This regime does not require full accounting for tax purposes. Taxpayers may use the purchase and sales registers to record their income and expenses, except for those who are not required to keep these registers.

• Employee Income Tax

Employee income tax is a progressive tax applied to income from employment, such as salaries, pensions (except foreign pensions) and complementary income.

These tax rates are applied to income ranges, with the first range being exempt and a rate of 40% being applied to the upper range. It is based on remuneration after deducting social security and health contributions. This tax must be retained and remitted monthly to the IRS by the respective employer or income payer.

Further information is available at: http://www.sii.cl/valores_y_fechas/impuesto_2da_categoria/impuesto2020.htm

• Overall Complementary Tax

Overall complementary tax is a final tax levied on Chilean and foreign individuals domiciled or resident in Chile.

This tax is declared and paid annually in April following the year when the income was received. It uses a progressive rate scale that is applied to income ranges, which begins with an exempt range and uses the same rates and ranges as employee income tax, although it is applied on an annual basis. It is based on all income received in Chile and abroad, and any previously remitted withholdings are deducted. If the taxes payable are less than the remitted withholdings, then a balance in favor of the taxpayer results, which is refunded to the taxpayer.

• Withholding Tax

Withholding tax is a final tax applied to *Chilean-source income* received by individuals or legal entities that are *not domiciled or resident* in Chile. This tax must be retained by the income payer and paid to the IRS. It produces a tax credit of 100% or 65% of the associated corporate income tax, depending on the tax regime chosen by the taxpayer, except when income is subject to withholding tax as a single tax.

The general rate for withholding tax is 35% and it is levied on *dividends, withdrawals and profit remittances* by corporations, partnerships or permanently established foreign companies. Lower rates apply to some types of income.

Withholding Tax Rates

Description	Rate
Dividends, remittances and withdrawals	
Dividends distributed by corporations, simplified corporations and limited partnerships formed in Chile, or attributable income that is remitted abroad or withdrawn.	35%
Shares and rights	
Income from the disposal of shares or corporate rights.	35%
They may be subject to corporate income tax as a single tax.	
Trademarks and patents	
Income from the use, enjoyment or exploitation of trademarks, patents, formulas and other similar benefits, as royalties or as any other form of remuneration, excluding payments for tangible goods imported into Chile up to a generally accepted cost.	30%
Invention patents	
Income from the use, enjoyment or exploitation of patents, utility models, industrial drawings and designs, integrated circuit designs or topographies and new plant varieties.	15%
Software	
Income from the use, enjoyment or exploitation of software, which is understood to be the instructions directly or indirectly used by a computer or processor, in order to achieve a specific result or operate a process, and contained in a physical or intangible medium.	15%
Movies and television	
Foreign income for producers or distributors from materials to be exhibited through movie and television broadcasts.	20%
Publishing rights	
Income from the use of publishing rights or book copyrights.	15%
Interest	
General rate of 35%	35%
Rate applied to interest paid to foreign banks or financial institutions that meet the requirements of the Income Tax Act.	4%
Services rendered overseas	
Remuneration for foreign services	35%
Engineering or technical work	
Income from engineering or technical work and for professional or technical services provided by a person or legal entity that provides scientific or technical services, advice, reports or plans, in Chile or abroad.	15%
Scientific, cultural or sports activities	
Remuneration exclusively for foreign individuals who perform scientific, cultural or sports activities in Chile	20%
Insurance premiums with non-Chilean insurance companies	2%
Reinsurance rate	22%
Maritime freight to or from Chilean ports by foreign companies	5%
Leasing, subleasing and chartering of foreign vessels	20%
Leasing of capital assets (a rate of 5% is assumed for each installment)	35%

Further information is available at: http://www.sii.cl/preguntas_frecuentes/renta/001_002_4223.htm

• Specific Mining Tax

This is an income tax on the operating income of a mining business, which is any individual or legal entity that extracts concessionable minerals and sells them in any form.

Mining businesses with annual sales that exceed the equivalent value of 50,000 metric tons of fine copper are subject to a progressive rate that varies between 5% and 14%. Those with annual sales that exceed the equivalent value of 12,000 metric tons of fine copper, but not 50,000 metric tons, are subject to a progressive rate that varies between 0.5% and 4.5%. Those with annual sales that do not exceed the equivalent value of 12,000 metric tons of fine copper are not subject to this tax.

• Value Added Tax (VAT)

Value Added Tax (VAT) is the main tax on *consumption* in Chile, which is declared and paid monthly. This tax of 19% is levied on the following transactions:

- Sales of movable and immovable physical goods;
- Services provided or used in Chile; and
- Regular and occasional imports into Chile by any individual or legal entity.

As of July 1, 2020, all digital services provided by foreign taxpayers without domicile or residence in Chile are subject to VAT. This includes streaming platforms, software, storage, IT infrastructure or platforms, advertising services and other digital services.

This tax also applies to the Treasury, semi-fiscal institutions, autonomous state administrative agencies, municipalities and companies owned by them or where they hold an interest.

Exporters are exempt from VAT on foreign sales. They are entitled to recover the VAT on goods purchased or services used for their exports.

Foreign investors and companies receiving foreign investment may request a VAT exemption on the import of capital goods, provided that they are fixed assets for mining, industrial, forestry or other projects that require an investment of at least US\$5 million. Requests are submitted to the Finance Ministry, which analyzes the supporting information and grants the exemption. Subsequently, it notifies the Internal Revenue Service and the Customs Service and sends them a copy of the resolution granting the exemption and the supporting information.

Further information is available at: <https://hacienda.cerofilas.gob.cl/>

• Other Taxes

a) Business licenses

Individuals engaged in a profession or commercial or industrial business must pay an annual tax to their local municipality.

This tax is a fixed amount for individuals providing professional services. It varies between 0.25% and 0.5% (depending on the municipality) of the company's equity for commercial or industrial businesses, subject to a maximum of 8,000 Monthly Tax Units (Unidades Tributarias Mensuales or UTM).

b) Foreign Trade Tax

Imports are subject to *ad valorem* tariffs, which varies by the type of goods and averages around 6%. The *ad valorem* tariff is based on the CIF value (Cost, Insurance and Freight). Then, Value Added Tax at 19% is calculated based on the CIF value plus the *ad valorem* tariff and any other special taxes.

The National Customs Service (Servicio Nacional de Aduanas) is responsible for overseeing foreign trade taxes (www.aduana.cl).

c) Imported Used Goods Tax

A 3% surcharge is levied on their CIF value and any other taxes according to their nature.

If the *goods originates* from a country that has a trade agreement with Chile, it may be exempt from *ad valorem* tariff or be eligible for a percentage reduction.

d) Stamp Tax

This tax is levied on documents that describe loan transactions, for example, bills of exchange or promissory notes, and a fixed or variable rate is applied, as appropriate.

e) Inheritance, Bequest and Donation Tax

This tax is progressive and varies according to the amount, the purpose of the gift, and the degree of kinship with the beneficiary.

f) Property Tax

This tax is levied on real estate property and is based on an official property appraisal. This is an *annual* tax, but can be paid in four installments in April, June, September and November each year.

g) Casino Tax

Admission to the games rooms at casinos operating in Chile is subject to a tax of UTM 0.07.

Companies operating gaming casinos are subject to a 20% tax on their gross income, net of VAT and provisional monthly tax payments (PPM).

Further information is available at: www.sii.cl

4. Tax Returns and Payment

Tax returns must be filed by employers, financial institutions, businesses and all other entities that withhold taxes, pay income or interest or make other payments about which the Internal Revenue Service should be informed.

Monthly tax returns must be filed by:

- Companies subject to corporate income tax and individuals working independently must declare a provisional monthly tax payment (Pago Provisional Mensual or PPM), which is treated as an advance payment of annual taxes.
- Employers are required to withhold the associated income taxes from each employee's remuneration.
- Taxpayers subject to Value Added Tax.

VAT must be declared and paid within the first 12 days of the month after the month when the VAT was withheld. "*Form 29 for the Monthly Declaration and Simultaneous Payment of Taxes*" (*Formulario 29 de Declaración Mensual y Pago Simultáneo de Impuestos*) issued by the Internal Revenue Service is used for this purpose. The deadline for filing this form can be extended to the 20th of each month, if the taxpayer bills electronically and files the return online.

An annual tax return must be filed by taxpayers subject to corporate income tax, overall complementary tax or withholding tax. These returns must be filed and the corresponding tax paid in April each year on their net taxable income received during the previous calendar year, using "*Form 22 on Income*" (*Formulario 22 de Renta*) issued by the Internal Revenue Service.

Taxpayers who have registered a password that gives them access to the online procedures offered by the Internal Revenue Service can file their monthly and annual tax returns and payments online.

Further information is available at: <http://bit.ly/2nID3Fn>

5. Treaties to Avoid Double Taxation

Treaties that avoid double taxation or double taxation agreements (DTAs) are those signed by two countries to avoid double taxation (i.e., that the same person does not pay the same income or capital tax in two different territories).

Consequently, treaties that avoid double taxation benefit the residents of both states since taxes paid at source are treated as credits or exemptions, when the same taxpayer

must pay taxes in the two countries where they are resident.

These treaties promote collaboration between the tax authorities in each state and establish the rules for determining which state has the right to tax income, the taxpayers, the type of tax, the applicable rates and other tax matters. Therefore, investors can understand beforehand the potential tax costs of generating income in each state.

As of 2021, Chile had 26 double taxation agreements with the following countries: Australia, Belgium, Brazil, Canada, Colombia, Korea, Croatia, Denmark, Ecuador, Spain, France, Ireland, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, Russia, Sweden, Switzerland and Thailand. Other agreements have been signed, but are not in force.

Further information is available at: www.subrel.gob.cl and www.sii.cl

6. Frequent Tax Procedures

i) Domicile or residence for tax purposes.

An *individual* is domiciled in Chile if it can be assumed that they wish to remain in the country based on their *activities*. This assumption does not necessarily depend on their presence in Chile, but on other circumstances that demonstrate their intent to remain. An individual is resident in Chile if they remain in Chile for periods that exceed 183 days in total within any twelve month period.

A *legal entity* is domiciled in Chile if it is incorporated in Chile.

ii) Tax Number (RUT)

All foreign investors, whether individuals or legal entities, even those without domicile or residence in Chile, before investing in Chile, must request the Internal Revenue Service (SII) a Tax Number, which identifies all taxpayers in Chile.

All foreign investors with a RUT must appoint a *legal representative* to represent them before the Internal Revenue Service. The legal representative may be Chilean or foreign, but must have *domicile or residence* in Chile.

The application to obtain a RUT can be made through a normal or a simplified procedure:

* Normal procedure

A foreign investor may appear before the Internal Revenue Service either personally or through his legal representative with domicile or residence in Chile. If he attends in person, he must do so accompanied by his legal representative, carrying out his passport or identity card, and fill out "*Form 4415 for Registering a RUT and/or Legal Declaration to Start Activities*" (*F-4415 de Inscripción al RUT y/o Declaración Jurada de Inicio de Actividades*).

If the investor attends through his legal representatives, he must grant them power of attorney with sufficient powers to act before the Internal Revenue Service, especially the power to complete, sign and legalize Form 4415, to receive notifications and to attend to subpoenas before the tax authority on behalf of the investor. This power of attorney must be granted before a Chilean notary public, or before a foreign notary public, in which case it must be legalized with The Hague Apostille or by endorsement by the respective Chilean Consul and the Ministry of Foreign Affairs in Chile, and then notarized by a Chilean notary public.

Alternatively, this request can be filed using the Internal Revenue Service website (www.sii.cl), "servicios online" section, "RUT e inicio de actividades" menu, "Inscripción y obtención de N° de RUT" option. The applicant must attach the required information, must have a tax code issued by the Internal Revenue Service, be a Chilean individual or a foreigner residing in Chile and be over 18 years old.

Further information is available at: <https://bit.ly/3jVxvUI>

* Simplified procedure

This procedure is directly performed by *banks and authorized securities brokers* that register investors who invest in Chile, in order to receive income from stock market transactions involving the purchase and sale of shares of publicly held corporations, regardless of their stock market presence, of fixed income instruments, money market instruments, mutual fund units or certain contracts.

iii) SII request to start activities

This procedure is only necessary if the investment involves *engaging in an economic activity in Chile*. The taxpayer files a sworn statement that informs the Internal Revenue Service that they will be engaging in activities in Chile that may be subject to taxes.

Individuals *not resident or domiciled* in Chile can request to start activities after investing in Chile by forming a company or a permanent establishment in Chile. Investors not resident or domiciled in Chile who only receive investment income are required to request a RUT, but not to start activities.

Applications to start activities can be filed on the website www.sii.cl, or by the taxpayer or their legal representative with sufficient authority by filing the corresponding form at any Internal Revenue Service office.

iv) Document stamping

Taxpayers that have started activities must get various accounting records and documents *stamped* by the Internal Revenue Service. These may be issued electronically or on paper with a dry stamp.

Further information is available at: www.sii.cl

7. Frequent Permits

Permits may be required to operate a business. These are granted by several agencies and they depend on the nature of the business. For example, they can be issued by a municipality or the Regional Secretariat for a Ministry.

Permit	Description	Granting Agency
Prior information certificate	It indicates whether the physical site where the business will be located is compatible with the intended commercial use, and indicates the potential for building or expanding on that site.	Works Directorate (Dirección de Obras) at the respective municipality.
Municipal zoning certificate	It indicates in advance whether a commercial business can operate at a specific address. It also describes the building requirements.	Works Directorate at the respective municipality.
Building permit	It is required to construct, reconstruct, repair, expand or demolish urban or rural buildings or urbanization works of any nature.	Works Directorate at the respective municipality.
Minor work permit	It authorizes the interested party to carry out works that do not alter the main structure of the building.	Works Directorate at the respective municipality.
Final reception of works	It authorizes a property to be inhabited or used for its intended purpose.	Works Directorate at the respective municipality.
Health permit	The authorization of the respective Regional Secretariat for Health is required if the commercial business handles food or hazardous substances.	In person or online from the Regional Secretariat for Health or the Health Service for the company's domicile.
Permit to install utilities	It reports the commissioning of works related to electricity generation, production or storage or fuel distribution.	Online from the Electricity and Fuels Superintendency (www.sec.cl)
Special permits	<p>These are numerous and depend on the commercial business and the local municipality. They include:</p> <p>Particulate matter emissions certificate.</p> <p>Zero procedure: This procedure applies to companies considered to be eco-friendly, or with low environmental or public health risks. The health authority is committed to issuing a health authorization certificate within an hour. The legal representative must request it at the offices of the Regional Secretariat for Health.</p> <p>Permit to commercialize electrical, gas and liquid fuel products.</p> <p>Request for a final electrical concession.</p>	Depends on the required permit. The respective municipality should be consulted.

8. Municipal Business License

Permits and licenses granted by municipalities are governed by Law 18,695, Organic Constitutional Municipality Act, and Law 3,063 on Municipal Revenues.

After obtaining the municipal permits to operate a business, the interested party must apply for a municipal license at the Business License Department of the local municipality. This

license authorizes the company to operate within the territory of the municipality. If this application is supported by all the permits required by the Law, the municipality should immediately grant a provisional or full license, as appropriate.

Further information is available at: www.chileatiende.gob.cl

BETWEEN MAY 1, 2013,
AND JUNE 30, 2021,
733,252 COMPANIES AND
BUSINESSES WERE SET UP
ELECTRONICALLY
IN CHILE.



ECONOMY MINISTRY

HOW TO INVEST IN CHILE



CHAPTER V: FOREIGN TRADE

WWW.INVESTCHILE.GOB.CL

CHAPTER V: FOREIGN TRADE

1. Customs Information

The most important regulation is the Customs Ordinance, which is contained in DFL 30 of 2004, issued by the Finance Ministry.

2. Imports

In general, any good may be imported into Chile, except for those that are expressly prohibited by law, for example the following:

- Used private vehicles.
- Used motorcycles.
- Used and retreaded tires.
- Asbestos in any form.
- Pornography.
- Toxic industrial waste.
- Illicit trafficking of narcotic drugs and psychotropic substances.
- Pharmaceutical products without a health registration.
- Goods that are dangerous to animals, agriculture or human health, which are prohibited by decrees issued by the Health Ministry, the Agriculture Ministry and other government agencies.
- **Other goods that, according to Chilean legislation, are subject to an import ban.**

Only importers that introduce ozone-depleting substances must be registered, as they need to be controlled according to the Montreal Protocol.

In addition, some goods, because of its nature and characteristics, may require approval, authorization or control by an inspection service to be imported. For example, the goods contained in the following table. These permits are issued regardless of the origin of these products and are generally approved automatically:

GOODS	AGENCY
Firearms, ammunition, explosives and chemical, flammable and asphyxiating substances.	General National Mobilization Directorate (Dirección General de Movilización Nacional) (www.dgmn.cl)
Written or audiovisual material related to teaching martial arts, without limitation, regardless of the person, establishment or entity that teaches it.	General National Mobilization Directorate (www.dgmn.cl)
Alcohol, alcoholic beverages and vinegars.	Agriculture and Livestock Service (www.sag.gob.cl)
Vegetation and goods that are dangerous to plants.	Agriculture and Livestock Service (www.sag.gob.cl)
Animals, products, by-products and animal or vegetable offal.	Agriculture and Livestock Service (www.sag.gob.cl)
Fertilizers and pesticides.	Agriculture and Livestock Service (www.sag.gob.cl)
Food products or by-products of animal or vegetable origin.	Agriculture and Livestock Service (www.sag.gob.cl)
Food products of any kind.	Health Service
Pharmaceutical or food products for medical and/or cosmetic use.	Health Service
Narcotic drugs and psychotropic substances that cause dependence.	Health Service
Substances that are toxic or hazardous to health.	Health Service
Fertile, fissionable or radioactive elements or materials, radioactive substances, equipment or instruments that generate ionizing radiation.	Chilean Nuclear Energy Commission (www.cchen.cl)
Hydro-biological resources at any developmental stage, including ornamental species.	Undersecretary of Fisheries (www.subpesca.cl)
Fish products.	Undersecretary of Fisheries (www.subpesca.cl)
Radio communications equipment that require prior authorization to use the transmission band.	Undersecretary of Telecommunications (www.subtel.cl)
Waste and scrapped batteries and accumulators made of zinc, lead, antimony, beryllium, cadmium, chromium, pharmaceutical products and organic solvents.	Health Ministry (www.minsal.cl)
Any wild fauna and flora species protected by the CITES Convention.	Authority defined in accordance with Article IX of the Convention (www.cites.org)
Cement used to manufacture load-bearing structures for public works and buildings.	Prior to customs clearance, a Quality Certificate must be submitted that has been issued by a Construction Quality Control Laboratory, registered in the Official Registry of Construction Quality Control Laboratories of the Housing and Urban Development Ministry.

3. Import Taxes

Imports into Chile are subject to tariffs at a general flat rate of 6% on its CIF value (cost of goods + insurance premium + freight value) and 19% VAT on its CIF value plus the tariff. Thus, the tariff structure is practically flat, as over 99.5% of the general tariff lines at 6% do not apply any seasonal tariffs.

For example:

CIF value	US \$1,000,00
Tariff at 6% on US\$1,000	US \$ 60.00
VAT at 19% on US\$ 1,060	US \$ 201.40
TOTAL CUSTOMS FEES	US \$ 261.40

In some cases, depending on the nature of the goods, special taxes are levied, which are calculated on the same tax basis (CIF value + tariffs), as in the case of fuels. In other cases, goods may be subject to specific tariffs, according to ranges that apply to each case, such as sugar, wheat and wheat flour.

Imports of used goods are subject to an additional surcharge of 50% on the duty payable, in addition to any other taxes to which they are subject, according to their nature.

When goods are imported from countries with which Chile has signed a free trade agreement, tariffs on certain products are eliminated or gradually reduced. As a result of the trade agreements in force, the average tariff effectively charged on imports into Chile in 2020 reached around 0.80%.

Furthermore, Law 20,690 of 2013, in force as of February 28, 2017, unilaterally and gradually eliminated tariffs on all goods imported into Chile from least developed countries (LDC), excluding wheat, wheat flour and sugar. The same treatment applies to imported goods that qualify as capital goods in accordance with Law 18,634, which are exempt from tariffs under Law 20,269.

Further information on the requirements for these tariff exemptions is available at: www.aduanas.cl

4. Service Exports

Exported services to individuals *without domicile or residence* in Chile, may be billed without Value Added Tax (VAT), and/or recover the VAT paid in the acquisition of goods or contracting of services necessary to provide the exported service.

The Chilean Customs Service (Servicio Nacional de Aduanas) is the agency that determines whether services qualify as "exported services". It has published a list, which is available at: www.aduana.cl. The Chilean Customs Service considers that services provided by commission agents and leased capital goods do not qualify as exports.

Further information is available at: www.aduana.cl



CHAPTER VI: ENVIRONMENTAL ASSESSMENT SYSTEM

CHAPTER VI: ENVIRONMENTAL ASSESSMENT SYSTEM

1. Environmental Institutional Structure

a. Environmental Assessment Service:

www.sea.gob.cl

The Environmental Assessment Service (Servicio de Evaluación Ambiental or SEA) is a public institution which administers the environmental management tool called the “Environmental Impact Assessment System” (Sistema de Evaluación de Impacto Ambiental or SEIA).

b. Superintendency of the Environment:

www.sma.gob.cl

The Superintendency of the Environment (Superintendencia de Medio Ambiente or SMA) oversees compliance with the rules, conditions and measures established in the Environmental Qualification Resolutions (Resoluciones de Calificación Ambiental or RCA) and has the exclusive power to apply sanctions for non-compliance with these rules, which range from written reprimand to revocation of the Environmental Qualification Resolution, including fines of up to 10,000 Annual Tax Units (Unidades Tributarias Anuales or UTA).

In addition, it maintains a *Public Registry of favorable Environmental Qualification Resolutions*.

The environmental inspection procedure ends with the publication of an *Environmental Oversight Report*, which identifies all of the acts that do not conform to the environmental management tool that regulates the project, activity or source under review.

However, since its main focus is to promote and encourage compliance with the regulations, guiding them in their understanding of their environmental obligations, it has support tools such as *Compliance Programs and Reparation Plans*.

c. Environmental Courts:

www.tribunalambiental.cl

Their function is to resolve environmental disputes.

There are three in Chile: in Santiago, Antofagasta and Valdivia. Each one is made up of three members, two of which are lawyers and one a professional with a scientific background.

d. Environment Ministry:

<https://mma.gob.cl/>

It is the public body which is responsible for the creation of public policies, regulations and good practices with regards to the environment.

2. Environmental Legislation

Environmental regulations and environmental sector permits (PAS) applicable to a specific project are reviewed on a case-by-case basis, taking into account various factors, including the nature of the project or its location, among others.

Law No. 19,300 on General Environmental Rules establishes in article 10 the projects or activities that can only be executed or modified upon assessment of its environmental impact, that is, that *they must file the project or activity with the Environmental Impact Assessment System*.

3. Environmental Impact Assessment System

The Environmental Impact Assessment System is a preventative management tool, which allows the authority to determine, *before a project is executed*, that it:

- Complies with current environmental legislation.
- Takes responsibility for any potential significant impact to the environment.

The procedure for entering the Environmental Impact Assessment System is initiated at the request of the interested party.

Any project or activity *capable of causing an impact to the environment*, including any modifications, can only be executed or changed following an assessment of said environmental impact. According to the scale and duration of any potential environmental impact, projects can enter the system through a *Environmental Impact Statement (Declaración de Impacto Ambiental or DIA)*, or through an *Environmental Impact Study (Estudio de Impacto Ambiental or EIA)*.

a. Environmental Impact Statement

The *Environmental Impact Statement* is a sworn statement made by the project owner with regards to its plans, which must include the relevant provisions indicated in art. 12 of Law No. 19,300, and which provides that the relevant authority will assess whether its environmental impact is in accordance with current environmental regulations.

b. Environmental Impact Study

The *Environmental Impact Study*, on the other hand, consists of a detailed description of the characteristics of the project or activity to be carried out or modified. This must include the relevant provisions of art. 12 of Law No. 19,300 and be accompanied by supporting documents that allow for the *prediction, identification and interpretation* of the project's environmental impact. It must also contain a description of the *mitigation actions* that will be adopted to prevent or minimize any significant adverse effects of the project.

The law specifies that the projects or activities listed in article 10 of Law No. 19,300, which generate or present any of the effects, characteristics or circumstances listed in article 11 of the same law, will require the preparation of an Environmental Impact Study. These include projects or activities that generate or represent:

1. Risk to the health of the population, due to the quantity and quality of effluents, emissions and waste.
2. Significant adverse effects on the quantity and quality of renewable natural resources, including soil, water and air.
3. Resettlement of human communities, or significant alteration of the life systems and customs of peoples.
4. Locations in or close to populations, resources and protected areas, conservation priority sites, protected wetlands, glaciers, which are likely to be affected, together with the environmental value of the territory in which the project is intended to be located.
5. Significant alteration, in terms of magnitude or duration, of the landscape or touristic value of an area.
6. Alteration of monuments, sites with anthropological, archaeological or historical value and, in general, those belonging to Chile's cultural heritage.

Further information is available at: <https://www.sea.gob.cl/sea/declaracion-estudio-impacto-ambiental>

c. Assessment of the Environmental Impact Statement or Environmental Impact Study

The Environmental Impact Statement or Environmental Impact Study is submitted to the *Project Evaluation Commission* of the Regional Directorate of the Environmental Assessment Service for the region where the project will be carried out, or to the *Executive Director* of the Environmental Assessment Service if the project or activity may generate an environmental impact in several regions.

In the case of an Environmental Impact Study, the environmental authority will have a period of 120 days to make a decision, which may be extended for up to 60 additional days as required.

In the case of an Environmental Impact Statement, the environmental authority will have a period of 60 days to make a decision, which may be extended for up to 30 additional days as required.

Further information is available at: <https://www.sea.gob.cl/sea/que-es-seia>

d. Environmental Qualification Resolution

The Environmental Qualification Resolution is the authorization issued by the Environmental Assessment Service once the Environmental Impact Study or Environmental Impact Statement assessment process has been completed.

Although the procedures for processing Environmental Impact Studies or Environmental Impact Statements are different, both conclude with the issuance of an Environmental Qualification Resolution, which can be favorable or unfavorable for the project. It could also conditionally approve the project, but, in any case, the decision must be *reasonably justified*.

A favorable Environmental Qualification Resolution enables the titleholder to obtain and manage the environmental sector permits (PAS) issued by other State agencies and, ultimately, to develop the project. It certifies that all applicable environmental requirements are met and that the project or activity complies with environmental regulations, including the environmental requirements contained in the corresponding environmental sector permits. In the case of an Environmental Impact Study, it further certifies that the project will be liable for the effects, characteristics or circumstances established under article 11 of Law No. 19,300, and that all appropriate mitigation, compensation and reparation measures have been proposed.

Further information is available at: www.grn.cl/resolucion-de-calificacion-ambiental-rca

e. Procedural Consultation

In the event of any doubt whether a project should enter into the Environmental Impact Assessment System, or whether it should be done via an Environmental Impact Study or Envi-

Environmental Impact Statement, the interested party should consult the Environmental Assessment Service as to which route is most appropriate. This procedure is voluntary and should be done before the project or activity is entered into the Environmental Impact Assessment System.

The consultation should be made to the Regional Director of the area in which the project or activity will be carried out, or to the *Executive Director* of the *Environmental Assessment Service* if the project is capable of impacting multiple regions.

On its website, the Environmental Assessment Service has a *"Manual for determining the entry of projects or activities to the Environmental Impact Assessment System"*, as well as another entitled, *"Criteria for determining when to consult the Environmental Impact Assessment System when making changes to a project or activity."*

The procedural consultation must contain the formal requirements as listed in article 30 of Law No. 19,880. These vary depending on whether the applicant is an individual or legal entity, whether it is a new project or changes to an existing project, or whether it has obtained an Environmental Qualification Resolution or not.

The Environmental Impact Assessment System regulations indicate what should be understood by *"project or activity modification"*, which creates the obligation to enter the system (Art. 2, g.3), as well as what should be understood by *"changes of consideration"* (Art. 3), due to *"substantive modification"* (Art. 2, g.4).

Further information is available at: <https://www.sea.gob.cl/consulta-de-pertinencia/que-es-una-consulta-de-pertinencia>

f. Environmental Sector Permits

Environmental Sector Permits¹ (Permisos Ambientales Sectoriales or PAS) are permits which aim to specifically protect an environmental object and can also include sector (non-environmental) protections. In these cases, within the Environmental Impact Assessment System, only the content that is related to environmental protection is reviewed.

Article 67 of the Environmental Impact Assessment System regulations establishes the technical and formal requirements and contents of the Environmental Sector Permits. If its content is *solely environmental*, a favorable Environmental Qualification Resolution will allow the permit to be issued by the competent state agencies, under the conditions expressed in the resolution. If the Environmental Qualification Resolution is unfavorable, the relevant bodies will be obliged to deny any such permits.

With regards to a mixed Environmental Sector Permit, that is, one which contains additional elements than solely those relating to environmental matters, the titleholder may present the non-environmental background information before the competent state body prior to notification of the

Environmental Qualification Resolution. This should indicate that the project is under environmental assessment, and the relevant body may rule on non-environmental legal requirements. However the Environmental Sector Permit may only be granted once the titleholder obtains the favorable Environmental Qualification Resolution.

g. Public Participation

The participation of the community or the general public is fundamental within the environmental assessment. It allows people to learn about a project or proposed activity and gives them the chance to voice their opinion in a responsible manner. It also provides the opportunity to give well-founded responses to their observations.

The public provides relevant information to the environmental assessment and gives transparency to the review of Environmental Impact Studies and Environmental Impact Statements, providing a solid basis to the decisions of the authorities.

Regarding public participation, Law No. 19,300, on General Rules of the Environment, establishes the following:

• Environmental Impact Studies

The owner of the project or activity must publish an abstract of the Environmental Impact Study in the Official Gazette and in a newspaper with national or regional circulation.

Once the abstract is published in the newspaper, the public has 60 working days to present observations.

Individuals and legal entities may review the content of the Environmental Impact Study and submit their observations, in writing, to the Environmental Assessment Service, or via the Service's website.

The observations presented by the public will be considered (and responded to) by the regional Environmental Assessment Service, or the Executive Directorate (in the case of interregional projects), on the basis of the Environmental Qualification Resolution. This will be notified to those who have made observations and will be published on the Service's website.

Any individual or legal entity who has made an observation and considers that it was not sufficiently considered (answered), can file an Appeal within a period of 15 days from the notification of the Environmental Qualification Resolution (for projects entered before January 26, 2010), and 30 days from the notification of the Environmental Qualification Resolution (for projects entered after January 26, 2010).

• Environmental Impact Statement

The Regional Directorates or the Executive Director, as appropriate, may decree the holding of a public participation process for a period of 20 days, provided that it is requested by at least two legally established citizen organi-

zations, through their representatives, or in the alternative, *at least ten individuals directly affected, in writing* and within 10 days of publication in the Official Gazette of the project submitted to Environmental Impact Assessment System.

The observations presented will be answered by the regional Environmental Assessment Service or the Executive Directorate (in the case of interregional projects) on the basis of the Environmental Qualification Resolution, which will be notified to the those who made observations. The observer who considers that his or her observation was not well answered, can present an appeal within a period of 30 days from the notification of the Environmental Qualification Resolution.

Further information is available at: <https://sea.gob.cl/evaluacion-ambiental/participacion-ciudadana>

h. Indigenous Consultation

The Environmental Assessment Service must design and develop a consultancy process with the indigenous population conforming to the provisions of Convention 169 of the International Labor Organization (ILO) and the Environmental Impact Assessment System regulations.

Such processes must contemplate appropriate mechanisms according to the sociocultural characteristics of each people and through their representative institutions, when a project *directly affects* one or more human groups belonging to indigenous peoples and *generates or presents any* of the following effects, characteristics or circumstances:

- i Requires the *resettlement* of human communities, or significant alteration of the life systems and customs of peoples.
- ii Is located in or close to populations, resources and protected areas, conservation priority sites, protected wetlands, glaciers, which are likely to be affected, together with the environmental value of the territory in which the project is intended to be located.
- iii Leads to the alteration of monuments, sites with anthropological, archaeological, or historical value and, in general, those belonging to Chile's cultural heritage.

Further information is available at: www.sea.gob.cl

4. Manuals and Guides of the Environmental Assessment Service

The Environmental Assessment Service has guides which facilitate the process of the users and include various materials, such as:

- Guides on the area of influence, air quality, soil components, flora and fauna of components in terrestrial ecosystems, land use.
- Sector permits: guides for cutting native forests, plantations on lands that are preferably apt for forestry, construction of certain hydraulic works, modifications of channels, regularization or defense of natural channels.
- [Ordinary Ruling No. 161116, of 2016](#), complements Official Ruling D.E. No. 130844, of 2013, of the Executive Directorate of the Environmental Assessment Service, which "standardizes criteria and technical requirements on areas placed under official protection and protected areas for the purposes of the Environmental Assessment System, and instructs on the matter."
- [Ordinary Ruling No. 161081, of 2016](#), relating to Procedural Consultation of entry to the Environmental Impact Assessment System.
- Ordinary Ruling No. 142090, of 2014, on Updating of the instructions on criteria for conducting environmental assessments in early stages and, if applicable, early termination of the administrative procedure for environmental impact assessment.
- Instruction No. 150575 of 2015, "Standardizes criteria and technical requirements on areas placed under official protection and protected areas for the purposes of the Environmental Impact Assessment System, and instructs on the matter."
- [Ruling No. 004000N2016 of 2016, of the General Comptroller of the Republic](#), provides instructions on the background information required to submit an Environmental Impact Study or Statement to the SEIA and for changes of ownership.
- Ordinary Ruling No. 112262/11 of 2011, Instructions regarding "Priority sites for conservation in the Environmental Impact Assessment System."
- Instruction No. 100143 of 2010, provides instructions on priority sites for the conservation of biodiversity.

586 PROJECTS WORTH
US\$36.2 BILLION
WERE SUBMITTED
FOR ENVIRONMENTAL
ASSESSMENT IN THE FIRST
HALF OF 2021, 14% MORE
THAN IN 2020.



ENVIRONMENTAL ASSESSMENT SERVICE, CHILE

HOW TO INVEST IN CHILE



CHAPTER VII: LABOR LEGISLATION

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CHAPTER VII: LABOR LEGISLATION

1. Regulatory Framework

The labor relationship between employers and workers is regulated in the Labor Code and its complementary laws, which establish the form, terms, rights, obligations, methods of termination and the consequences arising from employment contracts entered into in Chile.

The following employees are excluded from the provisions of these laws:

- National Congress.
- Judiciary.
- Employees of companies or institutions of the State or of those in which it contributes, participates or represents, provided that they are governed by special laws.

2. Oversight

Oversight of compliance with labor legislation belongs to the Labor Directorate, a public service whose purpose is also to ensure the correct interpretation of labor legislation. Labor claims are heard by independent courts with exclusive competence in labor matters, made up of specialized judges. These hearings are oral and public.

3. Employment Contracts

The individual employment contract is defined in article 7 of the Labor Code as an agreement by which the employer and the employee have reciprocal obligations, the latter to provide personal services under the dependence and subordination of the former, and the former to pay the set remuneration for these services.

a) Principal conditions of contract:

- The legal minimum working age in Chile is 18 years of age. However, minors under 18 years of age and over 15 may enter into contracts to carry out light work that does not harm their health and development, provided they have the express authorization of the person in charge of their care and prove that they have finished their secondary education or are currently studying primary or

secondary education. In these situations, the work provided for in the contract should not hinder their regular attendance at school and their participation in educational programs.

- Among the specifications that every employment contract must have are the nature of the services, the place where they will be provided, the amount, form and period of payment of the agreed remuneration, the duration and distribution of the working day and the duration of the agreement. Additional benefits that the employer may provide, such as housing, room, electricity, fuel, food or other benefits, must also be recorded.
- The contract must be in writing and signed in two counterparts by both parties, one in the possession of each party. Any modification must also be made in writing and signed by the parties.
- The rights established by law in favor of workers are non-waivable.

Further information is available at: www.dt.gob.cl

b) Types of employment contracts

- **Indefinite term contract:** A contract in which the term has not been previously agreed by the parties and may be terminated for the reasons established in the Labor Code, including dismissal, resignation and mutual agreement between the parties.
- **Fixed-term Contract:** A contract in which the parties have agreed a set time period for the validity of the contract. The maximum duration is one year but, in exceptional cases, can be two years for managers or people who have a professional or technical degree awarded by an institution of Higher Education. Regardless of their duration, fixed-term contracts can be renewed only once. A second successive renewal transforms them into indefinite term contracts. The same happens when the employee continues to provide services with the employer's knowledge, once the agreed term has expired.

- **Contracts for Set Works or Tasks:** Under this type of contract the employee is obliged to execute a specific material or intellectual work, and its validity depends on the time necessary for the execution of the contracted work.

Further information is available at:

<https://www.dt.gob.cl/portal/1628/w3-article-60797.html>

<https://www.dt.gob.cl/portal/1626/w3-article-100172.htm>

4. Termination of Employment

Labor contracts can only be terminated for the causes established in the Labor Code. Some of these causes give rise to the right of compensation for the employee, and others do not give such a right. Causes which do not entitle the employee to compensation include resignation, death of the employee, expiration of the term agreed in the contract, the conclusion of the work or service that gave rise to the contract, a fortuitous event or force majeure or the justified dismissal of the employee for misconduct as established by law.

In addition, there are specific grounds for dismissal which when unjustified or invoked erroneously generates liability for the employer to pay higher amounts of compensation for termination of the employment contract.

It is important to note that any employer who owes an employee the social security contributions established by law cannot terminate the employment contract.

5. Subcontracting

Chilean labor legislation allows the subcontracting of employees, which is defined as work carried out by virtue of an employment contract by an employee for an employer, called a contractor or subcontractor, who on the basis of a contractual agreement, executes works or services at its own risk and with employees under its dependence, for a third person, natural or legal, project owner, company or task, called the main company, in which they carry out the contracted services or works, as long as they are not sporadic or discontinuous.

In relation to outsourcing, it is important to keep in mind that:

- The contracting company is always the first to be liable to the employee for the obligations agreed in the employment contract. However, it is possible that the outsourcing company may also be jointly or severally liable to the employee.
- The general rule is that the outsourcing company is jointly and severally liable for the labor and social security obligations of the contractor company's employees.

Such liability will be limited to the time during which the employees provided subcontracting services for the outsourcing company. In the same terms, the contractor will be jointly and severally liable for the obligations that affect its subcontractors.

- The outsourcing company has the right to be informed by the contractors of the amount and status of compliance with its labor and social security obligations (right of information or control and payment). Therefore, if the contractor or subcontractor does not opportunely prove full compliance with labor and social security obligations with respect to its employees, the outsourcing company may withhold the amount from its obligations to the contractor for which it is liable (right of withholding).
- If the outsourcing company chooses to exercise these rights, it will be able to access a regime of subsidiary liability, in which it will only have to respond to the employee for the labor and/or social security obligations breached by the contractor and that have been legally demanded by the employee.

6. Nationality of Employees

The Labor Code establishes that at least 85% of the employees who work for the same employer must be of Chilean nationality, unless the company has less than 25 employees.

To determine this proportion, the total number of employees that an employer employs within Chile (and not that of the branches separately) must be considered, excluding specialist technical personnel who cannot be replaced by Chilean personnel.

In addition, for the purposes of this calculation, any foreign national whose spouse or civil partner or children are Chilean, or who is a widower or widow of a Chilean spouse, as well as foreign nationals residing for more than five years in the country, will be considered Chilean.

Further information is available at: <https://www.dt.gob.cl/legislacion/1624/w3-propertyvalue-145807.html>

7. Remuneration

- In Chile, remuneration includes all monetary compensation together with additional compensation in kind with monetary value received by the employee under the employment contract.
- The remuneration is set by common agreement between the employee and employer, but it cannot be less than the minimum monthly income (ingreso mínimo mensual or IMM) that is established annually by legislation and is to be applied to all employees over 18 years and under 65 years of age, except those exempt from working hours.

- For the period November 2020 to March 2021, the minimum gross monthly income was set at \$326,500.- (three hundred, twenty-six thousand five hundred pesos).

Further information is available at: <https://www.chileatien-de.gob.cl/>

8. Vacation

- Employees with more than one year of employment have the right of 15 days of paid vacation. Those who are employed in the regions of Magallanes and Aysén and in the province of Palena have the right to 20 days of paid vacation per year.
- Vacation is preferably granted in spring or summer, considering the needs of the business, and must be continuous. Vacation in excess of 10 working days can be split by mutual agreement between the employee and the employer. Vacation cannot be compensated by remuneration, except in the event of early termination of the employment contract.
- Mandatory national holidays are those established in article 2 of Law 19.973, and are intended to guarantee the rest of the employees on specific dates. During these holidays, the business must remain closed and any employer that violates these regulations is exposed to fines that can reach five Monthly Tax Units for each affected employee.
- Only clubs and restaurants, entertainment establishments, fuel outlets and emergency or on-call pharmacies are exempt from this regulation. In these cases, the employer may oblige employees to work but must compensate for this by granting the employee a day of rest on another day during the week. Currently in Chile there are four holidays with these characteristics: January 1, May 1, September 18 and December 25.

HOW TO INVEST IN CHILE

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CHAPTER VIII: SOCIAL SECURITY

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CHAPTER VIII: SOCIAL SECURITY

Labor legislation includes the rules that regulate the benefits to which citizens are entitled and relate to their main needs of healthcare, work and social welfare. In Chile, there are general regimes established for pensions, healthcare, occupational risks, family allowances and the complementary social services defined by law.

In the event of old age, unemployment, illness, disability, work accidents, maternity or loss of the principal household income earner, the State has a set of laws, policies and social security measures. These policies are collectively called the Social Security System, available to people who at different stages of their life must face a contingency that prevents them from generating income.

1. Elements of the Chilean Social Security System

- Pension System, for the contingencies of old age, disability and death.
- Healthcare System, for the contingencies of illness and pregnancy.
- Insurance for Workplace Accidents and Occupational Disease, regarding health and safety at work.
- Unemployment Insurance, for the contingency of unemployment.
- These benefits and insurance give rise to rights in the face of social contingencies, linked to the payment of social welfare obligations.

Within the framework of the Social Security System, the Pension System is a social protection mechanism to provide income to people who lose their income due to advanced age (old-age rights and benefits), disability (disability rights and benefits) or death of one of the main sources of income of a family (survivors' rights and benefits).

2. Current Pension System in Chile

In 1980 a model called the "AFP System" or "Individual capitalization system" was established (Decree Law 3,500), while some members remained in the previous pension system. The individual capitalization system consists of an individual financing mechanism, based on the savings that each employee makes during their working life, in order to pay for their pension.

3. Pension Funds

Each employer must be affiliated with a Pension Fund Administrator (Administradora de Fondos de Pensiones or AFP). It is the obligation of the employer to subtract the amount from the monthly salary and transfer it to the respective AFP. Affiliation with an AFP is a task which must be carried out by each employee. The employee can choose their preferred AFP, notifying the employer of the amount which should be withheld and transferred to the AFP.

The minimum amount which must be deducted from the salary is approximately 12.3% of the gross salary, with 10% being transferred to the individual AFP account to finance the retirement of the employee and approximately 2.3% to cover the Disability and Survivor Insurance and the commission charged by the AFP.

4. Healthcare System

The mandatory payment for healthcare is 7% of the employee's gross salary, notwithstanding that the employee can previously agree a higher payment up to a maximum of 80.2 UF with a healthcare provider.

This amount should be withheld and paid monthly by the employer to the National Health Fund (Fondo Nacional de Salud or FONASA), which is public, or to a Private Healthcare Provider (Institución Privada de Salud Previsional or ISAPRE) chosen by the employee. The employee is responsible for affiliating either with FONASA or an ISAPRE, notifying the employer the monthly amount to be withheld and paid.

Further information is available at: <http://www.supersalud.gob.cl/consultas/667/w3-article-2908.html>

5. Workplace Accident and Occupational Disease Insurance

This insurance aims to prevent and protect the occurrence of an accident in the workplace, commuting to or from the workplace or an occupational disease for the following people:

- Non-independent employees under contract (written or not), including private home workers and apprentices.
- Public Officials of State institutions, municipal and decentralized institutions of the State.
- Students who carry out jobs that are a source of income for their respective campus.
- Independent workers (self-employed or who receive payment).

Non-independent employees are covered by this insurance from the moment their employment relationship begins, even when they do not have a written contract or the respective social welfare contributions have not been made. By virtue of the law, the affiliation of an employee to a pension provider grants them beneficiary status, meaning that they are incorporated into the Institute for Occupational Safety (Instituto de Seguridad Laboral or ISL), unless their employer is a member of a mutual association.

Independent workers pay their relevant contributions monthly. However, those who are not overdue by more than two months will be considered up to date with the payment of their contributions. If the worker suffers an accident before having paid the necessary contribution, if they are not a member of a mutual association, the Institute for Occupational Safety will grant them medical benefits.

Further information is available at: www.suseso.cl

6. Unemployment Insurance

Law No. 19,728 establishes mandatory unemployment insurance for workers with employment contracts of an indefinite nature, for a fixed term, or for a specific work or service, governed by the Labor Code and signed after October 2, 2002, in the event that their contracts are terminated for any reason. The insurance is financed by contributions from the worker, the employer and the State and the amount of the monthly contribution will depend on the type of contract.

This insurance does not apply to independent workers or those who are subject to an apprenticeship contract, to minors under 18 years of age, and to those withdrawing a pension unless the pension has been granted for partial disability.

Requirements for receiving the unemployment insurance benefits:

- Be unemployed, with the prior employment contract coming to an end for any reason (including resignation, mutual agreement, dismissal or liquidation of the company).
- If the contract was indefinite: at least 12 continuous or discontinuous monthly contributions must have been made since the date of affiliation or from the date of the last amount withdrawn from the individual's capitalization account.
- If the contract was for a fixed term or for a specific work, job or service: at least six continuous or discontinuous monthly contributions must have been made.

*Further information is available at: <https://www.dt.gob.cl/portal/1628/w3-propertyvalue-27201.html>
<https://www.bcn.cl/leyfacil/recurso/seguro-de-cesantia>*

7. Maternity, Paternity and Family Life Benefits

The law safeguards maternity by guaranteeing leave and job stability for pregnant workers, and also grants working parents leave for the birth of a child.

All employees are entitled to these benefits, from all companies and institutions, public and private, including commercial centers and shopping malls, from all branches or work sites owned by a company, establishment or service.

The employer may not condition the hiring, permanence or renewal of contract, or promotion in employment, to the pregnant state of the candidate or employee, nor can it request any certificate or examination to verify said physical state (article 194, Labor Code).

a. Maternity Protection

This is the protection that is granted to a pregnant employee and its aim is the stability of her employment from the beginning of the pregnancy up to one year after the end of the postnatal rest period. It also benefits the employee to whom the personal care of a child has been granted by court order.

The benefit includes a prohibition on the employer to terminate the employee's employment contract without the prior authorization of the relevant judge. (Article 174 and 201, Labor Code).

b. Benefits for the Birth of a Child: Pre and Postnatal Maternity Leave

Every female worker has the right to maternity leave of six weeks before delivery (prenatal) and 12 weeks after delivery (postnatal). All work is prohibited during these periods. The right to pre and postnatal leave is regardless of the date of employment.

The father is entitled to five paid days, which can be taken continuously from the date of the child's birth, or to be distributed during the first month. Parents who adopt have this same right to be dated from the resolution granting them care of or accepting the adoption of the child (article 195, subsection 2, Labor Code).

Further information is available at: <https://www.dt.gob.cl>

c. Postnatal Paternity Leave

At the end of the postnatal period and after it, female employees are entitled to further parental postnatal leave of 12 additional weeks.

During this period, the female employee may choose to return to work for half of her working day, in which case

the leave will be extended to 18 weeks, receiving 50% of the subsidy as owed to her by the State under the law and, at least 50% of the fixed stipends established under the employment contract.

If both parents are employed, either of them, at the mother's choice, may take parental postnatal leave. This is available from the seventh week and apply for the number of weeks indicated by the mother. The weeks used by the father must be during the final period of the leave and will have the same existing allowance rights as enjoyed by the mother, calculated on the basis of their remuneration.

The employer has the obligation to maintain the employees' jobs during the indicated periods.

Further information is available at: <https://www.dt.gob.cl>

d. Daycare

When 20 or more women work in a company, whatever their age or marital status, the company has the obligation to provide a place where female employees can feed their children under two years of age and leave them while they work.

This obligation can be fulfilled in different ways:

- Creating and maintaining a nursery that is attached and independent from the workplace.
- Building or enabling and maintaining common nursery services with other establishments in the same geographic area.
- Paying the nursery expenses directly to an establishment that is recognized by the National Board of Preschools (Junta Nacional de Jardines Infantiles or JUNJI).

Further information is available at: <https://www.dt.gob.cl/portal/1628/w3-propertyvalue-24505.html>

e. Feeding Permission

Female employees have the right to have at least one hour a day to feed their children under two years of age, a right that the beneficiaries can exercise in any of the following ways:

- At any time within the working day, established by mutual agreement with the employer.
- By requesting the period be divided into two portions of half an hour each.
- By postponing or advancing by half an hour, or an hour, the start or end of the work day.

Law No. 20,761 extends the right to working fathers to have at least one hour a day to feed their children under two years of age (during working hours).

This is a right of working fathers and mothers and, therefore, it is not subject to any type of discounts and the time used to feed the children is considered as an hour worked.

Further information is available at: www.dt.gob.cl.



CHAPTER IX: INTELLECTUAL PROPERTY

CHAPTER IX: INTELLECTUAL PROPERTY

1. Regulatory Framework

Industrial property rights are regulated by Law 20,254 of 2008 and by valid international treaties signed by Chile.

2. Institutional Structure

- The Industrial Property Institute (Instituto de Propiedad Industrial or INAPI): for patents covering inventions, utility models, trademarks, collectives, geographical certifications and indications, and designations of origin.
- The Intellectual Rights Department of the Libraries, Archives and Museums Directorate (Dirección de Bibliotecas, Archivos y Museos or DIBAM): for copyrights and other related rights.

3. Intellectual Property

En There are several institutions in Chile responsible for intellectual property matters. The principal institutions are the Industrial Property Institute (Instituto de Propiedad Industrial or INAPI) for invention patents, utility models, trademarks, collectives, geographical certifications and indications, and designations of origin; and the Intellectual Rights Department of the Libraries, Archives and Museums Directorate (Dirección de Bibliotecas, Archivos y Museos or DIBAM) for copyrights and other related rights, such as performers and phonographic producers.

4. Industrial Property

a. Trademark Registration

The protection granted by the trademark is territorial, that is, only at the national level, and temporary, for 10 years, renewable indefinitely for equal periods, upon payment of the corresponding fee.

The registration procedure for a trademark, designation of origin or geographical indication consists of the following stages:

i. Application: This can be filed in person or online.

The application in person is filed at the INAPI service desk after completing the associated form, either personally or by a representative with sufficient authority.

The documents must indicate the application number, the trademark and the identity of the applicant or their representative.

The procedure has standard prices that are published on INAPI's website.

ii. Formal examination: After the trademark application is filed, INAPI performs a formal examination and may accept or challenge the application:

If the application is accepted:

The application fee must be paid and an abstract of the application must be published in the Official Gazette within 20 working days of acceptance. Otherwise, the application will be treated as abandoned.

From the date of publication in the Official Gazette, a period of 30 working days begins for third parties to file opposition to the application.

If there is no opposition, the application is sent to the INAPI National Director to review and issue the final decision.

If the request is challenged:

The applicant must make the corresponding corrections or clarifications within the following 30 days. Failure to do so will result in the application being declared abandoned.

iii. Final resolution: This is issued by the INAPI National Director, who may:

- Accept the trademark, in which case the applicant must accredit that the fees have been paid within 60 days of the date that the resolution was notified. Subsequently, the Trademark Certificate is granted.
- Reject the trademark, in which case the applicant may appeal to the Intellectual Property Court with the support of a lawyer.

Further information is available at: <https://www.inapi.cl>

b. Patent Registration.

The application for a patent covering inventions, utility models, industrial designs, industrial drawings or integrated circuit designs or topographies may be filed online or in person.

This procedure consists of the following stages:

i. Purchasing the forms: The application forms and the technical sheet must be purchased and then completed together with the identity of the applicant, inventor or representative, including a title that clearly and precisely conveys the patent's essence. These documents are available on the web and at INAPI's offices.

To register a patent, the technical sheet must include a representative summary of the invention, its field of application and the technical problem it intends to solve. It may also contain a figure.

If the applicant appoints a representative, the respective power of attorney must be attached. If the applicant is not the inventor, a document assigning these rights must be attached.

ii. Preliminary examination: After an application to register inventions, utility models, industrial designs, industrial drawings or integrated circuit designs or topographies is filed, INAPI will perform a preliminary examination to verify whether it meets the minimum formal requirements to continue the process, and the documentation may be challenged.

If the application is challenged:

The applicant must reply to these challenges within the following 60 working days. They must correct or clarify them and attach supporting documents, as appropriate. Failure to do so will result in the application being treated as not filed.

If the application is not challenged:

If the application is not challenged, or any challenges are promptly corrected, the application is accepted for processing.

The applicant must collect a proposed abstract of the application from INAPI and publish it in the Official Gazette within 60 working days of its acceptance. Failure to do so will result in the application being treated as abandoned. If the applicant wishes to restart the process, they must request that the application be reopened and publish the abstract within 120 working days of the resolution date that declared the application abandoned. Otherwise, the application will be definitively archived.

iii. Opposition: Any interested party may file an opposition to the patent application within 45 days of the abstract being published in the Official Gazette. Admissible grounds are that it does not comply with patent registration requirements, or that it infringes on their rights.

iv. Expert procedure: The applicant must pay the expert's fees and report this payment to INAPI no more than 60 days after the period for filing oppositions has expired, regardless of whether an opposition has been filed. Otherwise, the application will be treated as abandoned. If the applicant wishes to restart the process, they must request that the application be reopened and report the aforementioned payment within 120 working days of the resolution date that declared the application abandoned. Otherwise, the application will be definitively archived.

After the expert fee has been paid, INAPI will appoint an expert, who must issue a report and a technical analysis of the application within 60 working days, which will include an opinion regarding whether it complies with patent registration requirements. If the expert challenges the application, the applicant has 60 working days to respond to the observations.

v. Resolution and final acceptance: Provided the application meets the patent registration requirements, the INAPI National Director will issue a resolution granting an industrial property right after a formal review of the application.

vi. Fee payment and report: After the application is accepted, the applicant must request from INAPI a payment order to any commercial bank for the patent acceptance fees, which must be reported to INAPI within 60 working days of the date that the acceptance resolution was reported, which must be accompanied by a copy of the payment order duly stamped by the bank. After the payment has been reported, INAPI will assign a registration number to the patent. If payment is not reported within that deadline, the application will be treated as abandoned.

After the payment has been reported, INAPI will prepare the registration and issue, at the request of the interested party, the document that recognizes that a specific person owns the respective industrial property.

An invention patent is valid for 20 years from the date the application is filed with INAPI. A patent for utility models, industrial designs, industrial drawings and integrated circuit designs or topographies is valid for 10 years. These periods are not renewable.

5. Patent application filing system using the Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (PCT) is an international treaty administered by the World Intellectual Property Organization (WIPO) and signed by more than 150 countries, including Chile. Its main objective is to simplify the procedure for filing an international patent application, in order to obtain patent protection in several countries.

The PCT is a system for filing patent applications, but not for granting them. It has two fundamental phases:

i. The International Phase: This is composed of four stages, which are the International Application Submission, the International Search, the International Publication (carried out by WIPO on its website) and the International Preliminary Examination (which is optional).

The procedure is carried out by the Receiving Office (RO), the WIPO International Bureau, the International Searching Authority (ISA) and, eventually, an International Preliminary Examination Authority (IPEA).

nal Preliminary Examination Authority (IPEA).

ii. The National Phase: At this stage, the applicant goes directly to designated national offices, which are responsible for granting or rejecting the patent application.

The Receiving Office in Chile is INAPI, which receives the PCT international application and carries out an examination of its formal and material requirements. The original copy is then sent to the WIPO International Bureau for international publication and a search copy is sent to the ISA for the International Search Report and Written Opinion. Subsequently, the applicant can request a preliminary international examination before an IPEA in order to obtain a second opinion.

Finally, the applicant must decide whether to initiate the National Phase in the countries where they wish to patent their invention, based on the preceding information and within 30 months of the priority date, which is the date that the first patent application was filed.

INAPI has been designated the Receiving Office in Chile. It also functions as the PCT ISA/IPEA and serves as the PCT Designated/Selected Office, which mainly receives foreign patent and utility model applications that are filed during the National Phase in Chile.

Further information is available at: www.inapi.cl.

6. Samples of Microorganisms

Invention disclosure is a requirement for granting patents. When an invention involves a microorganism or its use, such as food and pharmaceutical patents, this disclosure requires sending a sample of the microorganism to a specialized institution.

The Budapest Treaty, administered by the World Intellectual Property Organization (WIPO) and ratified by Chile, allows the deposit of the microorganism in any International Depository Authority (IDA) to be valid before the industrial property offices of the contracting parties. The Chilean Agricultural Research Institute (Instituto de Investigaciones Agropecuarias or INIA) is an International Depository Authority, and specific microorganisms can be sent to its operational unit at the Chilean Collection of Microbial Genetic Resources (Colección Chilena de Recursos Genéticos Microbianos).

Further information is available at: www.cchrgm.cl.

7. Registration in the Copyrights and Related Rights Registry

The regulations governing copyright in Chile are the Political Constitution of the Republic (Article 19 paragraph 25), the Civil Code (Article 584) and the Intellectual Property Act 17,336 and its subsequent amendments, together with regulations that apply the law in Supreme Decree 1,122 of 1971.

a. Copyright

Copyright is the legal rules that protect the author and their intellectual work, as well as copyright holders, who are the author's surviving spouse, heirs, assignees and legatees. Copyright protects artistic and literary works, original software and databases and other intellectual property.

Copyright has two equally important aspects:

- Economic rights, which allow the owner or their successors to benefit from the exploitation, reproduction, communication and publication of literary or artistic work, by any means or procedure, and
- Moral rights, which are highly personal and non-transferable, such as the right of paternity and integrity of the work, of repentance or retraction, etc.

b. Related rights

The related rights of artists, performers, phonographic producers and broadcasting organizations grant protection to those who are not authors, but contribute with creativity, technique or organization to the process of making a work available to the public.

Related rights are closely related to copyright and directly derive from it. Their purpose is to protect the legal interests of specific people and legal entities that contribute to making works available to the public or producing creations that may not be considered works under copyright systems in every country, but contain sufficient creativity, technical and compositional innovation to merit a property right that is assimilated to copyright.

The Intellectual Rights Department of the Libraries, Archives and Museums Directorate (DIBAM) at the Education Ministry is responsible for registering copyrights and related rights, and the other functions conferred by the Intellectual Property Act 17,336 and its Regulations.

Registration in the Copyrights and Related Rights Registry is significant proof of the originality of the creation and protects both moral and economic rights.

Creating a work is the source of protection, but any claim will always be more solid, effective and pragmatic when the evidence on which it is based includes a reference to the certificate of registration of that work with the Administrative Authority that administers the associated Public Registry.

Registration establishes a preliminary test to determine whether the facts and acts recorded are true, unless proven otherwise. The *iuris tantum* presumption is established in Chile, which means that the person who appears as such in the respective registration is considered to be the author, unless proven otherwise.

The Chilean registration system in these matters is managed by the Intellectual Rights Department of the Libraries, Archives and Museums Directorate. An application can be filed in person, online or by mail.

Further information regarding online registration is available at: https://www.propiedadintelectual.gob.cl/623/w3-article-29209.html?_noredirect=1

It is suggested that after receiving the procedure number assigned by the system, an email reporting this information is sent to propiedad.intelectual@dibam.cl

DIBAM's Intellectual Rights Department provides the following services:

- Copyright registration: Registration of original literary, artistic and literary-scientific creations expressed using any tangible or intangible means or support, including photographs, designs, databases, software, engineering and architectural projects, cinematographic works, web pages and characters, etc.
- Registration of copyright and publishing assignment contracts.
- Registration of related rights produced by performers, phonographic producers and broadcasting organizations.
- Registration of works recorded on a phonogram by a phonographic producer who is the individual or legal entity responsible for recording the first audible production of that creation.
- Registration of works belonging to the performers of a work.
- Registration of related rights assignment contracts.
- Issuing registration certificates for works.
- Registration of pseudonyms.
- Supplying legal information related to the Intellectual Property Registry as evidence to Public Prosecutor's Offices, or to national or international special agencies.
- Annotations and sub-registrations of encumbrances and prohibitions regarding copyrights or related rights, as decreed by Public Prosecutor's Offices.

Further information is available at: National Industrial Property Institute (INAPI) <http://www.inapi.cl>

Libraries, Archives and Museums Directorate (DIBAM) <http://www.dibam.cl>

Education Ministry <http://www.mineduc.cl>

Intellectual Rights Department <http://www.ddi.cl>

8. Registration of “.cl” Domain Names in Chile

The registration of “.cl” domain names is administered by NIC Chile. This is an agency of the School of Physical and Mathematical Sciences at the Universidad de Chile.

Domain names may be registered by individuals and public or private legal entities domiciled in Chile or abroad. The applicant must create a “User Account” for themselves or their representative at <http://www.nic.cl>. This account can be used to register and manage their domain name portfolio. Using a local representative is not mandatory and must be evaluated by each applicant.

9. Regulatory conditions to register “.cl” domain names

Applications are received exclusively online using a User Account and are subject to the conditions established in NIC Chile’s regulations. All users receive a copy of these regulations, which can also be found at <http://www.nic.cl/normativa/reglamentacion.html>

If a third party considers that its rights or interests are affected by the registration of a “.cl” domain name, they may request its revocation. If their request is based on a preemptive right, the request must be filed within 30 calendar days of registration. After this period has elapsed, they may only invoke the grounds of abusive registration.

NIC Chile has a dispute resolution procedure based on arbitration. It is processed entirely electronically, whereby the arbitrator resolves the dispute using prudent and equitable criteria. Arbitration fees shall be borne exclusively by the party requesting the revocation.

10. User assistance

NIC Chile has a telephone help desk (+56 229407700) and an email inquiry center to guide the user through the registration procedure or dispute resolution procedure.

info@nic.cl / legal@nic.cl



CHAPTER X: PERSONAL DATA PROTECTION AND PRIVACY

CHAPTER X: PERSONAL DATA PROTECTION AND PRIVACY

1. Regulatory Framework

The legislation regulating the protection of a person's privacy is contained in Law No. 19,628 of 1999 on the Protection of Privacy and its amendments.

This regulation protects an individual's privacy against possible breaches of unauthorized access, be it in the manual or automated collection, registration, processing, disclosure or use of personal data in records or databanks by individuals or government institutions.

Law No. 20,285 of 2008 on Access to Public Information establishes in article 33 m) that one of the functions of the Council for Transparency is to ensure compliance with Law No. 19,628 regulating the protection of personal data by government bodies of the State.

For its part, Law No. 21,096 of 2018, which amends article 19, 4) of the Chilean Constitution, incorporated the right to personal data protection in the catalog of individuals' fundamental rights.

Article 19 No. 4, of the Constitution:

"The Constitution guarantees everyone: (...) respect and protection of their privacy and that of their family and also protection of their personal data. The treatment and protection of these data will be handled in the manner and under the conditions determined by the law (...)"

2. Some Definitions Contained in Law No. 19,628

i. Data. The law establishes four categories of data:

- Personal data: data linked to individuals who are identified or identifiable (Article 2, f).
- Sensitive data: data linked to an individual's physical characteristics or moral character or to facts or circumstances of the individual's private life or personal matters, such as personal habits, race, ideologies, political views, religious beliefs, medical or psychiatric history and sexuality (Article 2, g).
- Outdated data: data that has become outdated or expired for any of the following reasons:
 - Provision of the law;
 - Fulfillment of the condition or if the information is no longer valid ; and
 - In the absence of an express rule, due to a change in the facts or circumstances to which it refers, (Article 2, d).
- Statistical data: data which, both in its origin as well as for its treatment, cannot be linked to an identified or identifiable individual, (Article 2, e).

ii. Functional record or databank: :

Refers to *"the organized grouping of personal data, whether automated or not, that, regardless of the method of creation or organization, can be linked to other data or processed in some way."* Article 2, m).

According to this definition the differentiating factor between a "database" and a simple set of organized data is that the database can be processed by automated or other means.

3. Principles Covered by Law No. 19,628

- Principle of lawfulness: Personal data can only be processed when it is legally authorized (Article 4, Law No. 19.628).
- Special principle of sensitive data protection: Data are considered to be of a sensitive nature when they refer to an individual's physical or moral characteristics, facts or circumstances related to the individual's private life or privacy, such as personal habits, race, ideologies or political views, religious beliefs, medical or psychiatric history or sexuality (Article 2, g)).
- Given the nature of sensitive data, its processing is prohibited unless: a) it is authorized by law, b) consent has been given by the individual or c) such information is necessary for determining whether the individual in question may be granted health benefits.
- Principle of accuracy or quality of data: information contained in the databases must be accurate, up to date and correspond truthfully to the individual's real situation (Article 9, paragraph 2). Non-compliance with this obligation gives the individual the right to request that the data be modified, blocked or deleted.
- Principle of purpose: personal data may only be used for the purposes for which it was collected, (Article 9).
- Principle of information and consent given by the individual: the processing of personal data is only possible with the express authorization of the law or authorization given by the individual. An individual's authorization must be in writing and may also be revoked also in writing without the need for just cause, however, said revocation is not retroactive (Article 4). There are three exceptions to this principle:

1.- When the information is obtained from publicly accessible sources, that is, records or compilation of personal data that are public or private with unrestricted access or access available upon request (Article 2, i)). This type of data could be subject to processing without the need for authorization by the individual when:

- a.** they are of an economic, financial, banking or commercial nature;
- b.** they are included in lists related to a category of individuals where information is restricted to background information such as the individual's membership in that group, profession or activity, diplomas, address or date of birth; or

c. they are needed for direct response commercial communication or direct marketing or sales of goods or services (Article 4, paragraph 5).

2.- Processing of data by private legal entities for their exclusive use, for their associates and affiliated entities for statistical, pricing or other purposes having a general benefit. (Article 4, final paragraph).

3.- Processing of data by public bodies, which shall refer exclusively to matters within their jurisdiction and shall be subject in their actions to the provisions of Law 19,628 (Article 20).

- Principle of security: managers of records or databases where personal data is stored must safeguard them with due diligence and is responsible for any damages caused (Article 11).
- Principle of confidentiality or secrecy: when the data comes or has been collected from a source not accessible by the public, individuals processing those personal data, whether from the public or private sector, must keep them confidential, including after termination of employment (Article 7).

4. Rights of an Individual

- Right to information or access: An individual may request information from the database manager regarding data related to him or her, their origin and recipient, the purpose of storage and the identity of persons or organizations who receive the individual's data on a regular basis (Article 12).
- Right to modification or rectification: The law empowers the individual to request that personal data be modified when it is erroneous, inaccurate, misleading or incomplete and to request proof of the modification. (Article 6, paragraph 2 and Article 12, paragraph 2).
- Right to cancellation or deletion: Personal data must be deleted or canceled when storage has no legal grounds or when it has expired. (Article 6, paragraph 1 and Article 12, paragraph 3).
- Right to blocking: In cases where information cannot be canceled, personal databank managers must block data for which the accuracy of the information cannot be ascertained or its validity is doubtful (Article 6, paragraph 3).

5. Regarding the Use of Personal Economic Data

Law 19,628, Article 17 stipulates what kind of information of an economic nature can be disclosed, namely:

- Obligations contained in protested bills of exchange, promissory notes or notes, NSF checks, default on loans or credit from banks, financial companies, etc.
- Debts owed to companies that provide utilities such as electricity, water, telephone, gas, etc.
- Debts owed on student loans from preschool to higher education, in order to avoid being included in the commercial past-due or delinquent debt system.
- Protested documents or delinquent debts originated during the debtor's period of unemployment.

6. Special Data Processing by Public Institutions

In accordance with a special statute of Law No. 19,628, the Civil Registry and Identification Service (Servicio de Registro Civil e Identificación) manages a registry of personal data-banks under the control of public institutions that shows the legal basis for the existence of said databanks, their purpose, types of data stored and a description of the group of individuals involved.

7. Jurisdictional Control

Chilean law permits affected parties to go to court to protect their rights in relation to how their personal data is processed by means of a *habeas data* action. This is admissible in cases where the data manager ignores an individual's request for information, modification, cancellation or blocking of personal data within two working days or when the request is denied for reasons other than national security or national interest (Article 16).

If the claim is accepted, the judgment will set a reasonable term to comply with the decision and may apply a fine of one to 10 Monthly Tax Units (Unidades Tributarias Mensuales or UTM) or from 10 to 50 UTM if the data were related to economic, financial, banking or commercial obligations (Article 16, paragraph 5). Failure to comply with the court's decision is punishable with a fine of two to 50 UTM and if the data manager of the requested databank is employed by a governmental institution, the court may suspend the head of the service from his or her duties for a period of five to fifteen days (Article 16, paragraph 6).

In rare instances, if the reason invoked to deny the request is national security or national interest, the claim must be filed before the Supreme Court.



CHAPTER XI: CONSUMER PROTECTION



CHAPTER XI: CONSUMER PROTECTION

1. Regulatory Framework

Chilean consumer protection legislation consists basically of Law No. 19,496 of 1997, amended by Laws No. 20,555 of 2011 and No. 21,081 of 2018, which regulate relations between consumers and merchants/suppliers, based on the premise that the need to protect consumers stems from the disparities between the parties.

2. Institutional Structure

i. National Consumer Service :

The National Consumer Service (Servicio Nacional del Consumidor or SERNAC) is the government body responsible for providing guidance and information to consumers regarding their rights, mediating between consumers and suppliers, and sanctioning any infringement of their legal obligations on the part of suppliers.

ii. Consumer Associations: In Chile, Consumer Associations exist that represent and defend their members and the general public before government authorities and the courts of law.

3. Consumers and Suppliers. Rights and Obligations.

Chilean legislation defines consumers and suppliers as follows:

i. Consumers or users: individuals or legal entities who by virtue of any legal transaction, acquire, use or enjoy as final recipients, certain goods or services. (Article 1, No. 1, Law No. 19,496).

ii. Suppliers: individuals or legal entities of a public or private nature that customarily produce, manufacture, import, construct, distribute or market goods or provide services to consumers, for which they charge a fee or a price.

iii. Persons possessing a professional title or degree who conduct independent activities in their field of expertise are not considered to be suppliers (Article 1, No. 2, Law No. 19,496).

Consumer Rights

According to the law, consumers have the right to:

- Not face arbitrary discrimination.
- Receive true, timely, relevant, sufficient and suitable information.
- Unilaterally terminate the contract within ten days of receiving the product or contracting a service.
- Make effective the warranty (request replacement, receive a refund or have the faulty product repaired within 3 months after the purchase date).
- Freely choose the product or service.

Consumer Obligations

The law also specifies certain obligations on the part of consumers, including the obligation to:

- Inform themselves suitably about the quality of the products.
- Follow the instructions for use, maintenance and installation of the product.
- Act in good faith in their relations with suppliers.
- Read the relevant advertising, etc.

Obligations of Suppliers of Consumer Goods and Services

The legal obligations of suppliers include the obligation to:

- Not arbitrarily discriminate between consumers by unjustifiably refusing to sell a product or provide a service.
- Comply with the advertised conditions, the information provided and the contract terms.
- Respect the price that is advertised, informed, published or shown on the product.
- Submit commercial information that may be requested by SERNAC.

4. Consumer Protection Mechanisms

The principal protection mechanisms for consumers are:

the oversight conducted by SERNAC, voluntary collective procedures, class action suits and collective mediation.

Oversight by SERNAC

Chilean legislation grants SERNAC the right to conduct oversight activities aimed at guaranteeing compliance with consumer rights regulations, discouraging violations by suppliers and undertaking corrective measures in case of violations.

In this regard, SERNAC may subpoena the legal representatives, administrators, advisors and employees of the suppliers and any person involved in or aware of an incident. SERNAC may also request to see any documents, ledgers or other information needed to perform its oversight functions.

Voluntary Collective Procedures

This procedure may be initiated as a result of:

- A SERNAC ruling to initiate voluntary collective procedures lasting a maximum of six months (three months renewable for up to three more months at the supplier's request or by virtue of a SERNAC resolution), starting from the date the supplier is notified of the SERNAC resolution initiating the procedure. During this period, the supplier must abide by the requirements and time frame defined by SERNAC in order to provide direct compensation to thousands of consumers and, in doing so, avoid a lawsuit.
- A well-founded complaint by a Consumer Association.
- A request from a supplier.
- An analysis by SERNAC of information obtained from complaints, consultations, citizen warnings, etc.

Class Action Suits

This procedure is applicable in cases where a supplier has affected a large number of consumers and may only be initiated by SERNAC or by a Consumer Association or a group of 50 or more consumers.

The court judgment or the settlement agreement derived from such proceedings shall benefit all consumers involved, except in the event of *reservation of rights* by those consumers who may wish to initiate individual lawsuits (or for other personal reasons), meaning that the results of the class action suit will not apply to them.

The class action suit may seek compensation for *collective non-material damage* apart from compensation for *direct damages*. The former refers to dama-

ge caused to the physical or mental integrity or the dignity of the consumers.

Collective Mediation

This procedure makes it possible for the merchant/supplier to voluntarily resolve a collective consumer issue, for the benefit of all affected parties. Collective mediation involves the following stages:

- Start of mediation: The start of the collective mediation is communicated in writing by SERNAC to the consumers, the supplier and the pertinent oversight and regulatory agencies.
- Agreement or refusal by the supplier to take part: In the case of a voluntary procedure, the supplier may refuse to take part, in which case SERNAC will implement the pertinent measures provided by law.
- Dialogue: This step takes place when the supplier agrees to take part in mediation and communicates to SERNAC the proposed action plan and time frame for paying compensation to the affected consumers. This proposal will be studied by SERNAC, along with the proposed steps aimed at preventing the recurrence of the problem.
- Acceptance or rejection of the offer submitted by the supplier: If SERNAC considers that the proposed solution does not resolve the issue behind the complaints, it may initiate collective legal action. If the proposal is accepted, SERNAC will communicate this to the consumers and will consider the mediation process closed.

Complaints

Consumer protection is also exercised through other channels, including: *Complaints (Reclamos)*, *Citizen Warnings (Alerta ciudadana)*, *Do Not Disturb (No Molestar)*, and *I Want Out (Me Quiero Salir)*. These channels make it possible for SERNAC to compile information and undertake investigations about possible violations of the law.

5. Sanctions

Current legislation establishes different sanctions for suppliers who violate consumer protection regulations, including:

- Fines of up to 300 UTM, if no other sanction is established for the violation;
- Fines of up to 1,500 UTM for violations of misleading advertising published in the media;

- Fines of up to 2,250 UTM for violations concerning the quality of the product or service or which affect public health, public safety or the environment.

6. Consumer Financial Protection (SERNAC Financiero or Financial SERNAC)

Law No. 20,555 is intended to ensure that financial consumers are treated as “average consumers” who need all relevant information to be “simple” and “transparent” in order for them to make informed consumer choices in an opaque market. If the financial consumer is “led into error”, the law considers a three-pronged sanction system, based on annulment, fines and compensation for damages caused by violations on the part of the financial service provider.

The scope of Law No. 20,555 covers all financial products and services, such as consumer loans, mortgage loans, credit cards and lines of credit offered by banks, financial institutions, commercial establishments, insurance companies, employee benefit funds, savings and credit cooperatives and other types of companies or suppliers of credit services, insurance and/or any other financial product in general.

Rights of Financial Consumers

The law grants financial consumers a number of rights, including the right to:

- Demand information on the total cost of the product or service that is being purchased or quoted, including prices, rates, charges, commissions, etc.
- Know all the conditions established by the company for making a transaction, such as the consumer’s minimum monthly income.
- Demand that the financial service provider communicate in writing the reasons for refusing to provide or sell a product or service that is needed by the consumer.

Prohibitions Applicable to Financial Institutions

Chilean legislation prohibits the following practices, among others, on the part of financial institutions:

1. Changing the prices, rates, charges, commissions, costs and fees of a financial product or service when a customer requests renewal, restitution or replacement of the product’s or service’s physical support, such as a plastic credit card.
2. Sending or mailing financial products or contracts for such financial products to the domicile or workpla-

ce of consumers when they have not requested them.

3. If the financial service provider accepts automatic bill payment or electronic funds transfer, they may not force the customer to use the financial service provider’s own financial products. The consumer must be given the choice to use the products or services of other financial institutions.

Sanctions

The law establishes various sanctions for violating the rights of financial consumers:

• Fines

The financial service provider will be sanctioned with fines up to 1,500 UTM for violating the obligations set out in Article 17, b) - j) of Law No. 20,555 if one or more consumers are affected. If the violation consists of publishing misleading advertising in the media, the fine may be up to 2,250 UTM:

• Annulment

The financial consumer may demand annulment of one or more contract clauses if the financial service provider fails to comply with any of the obligations set out in Article 17 b), such as providing a breakdown of charges, commissions, costs and fees for the service provided.

• Civil Liability

The financial service provider will incur civil liability in cases where the financial consumer’s freedom is violated by infringing on the consumer’s right to receive quality, simple and transparent information that allows the consumer to clearly understand the product they are to receive.



CHAPTER XII: PREVENTING MONEY LAUNDERING

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Money laundering seeks to hide or conceal the nature, origin, location, ownership or control of money and/or assets obtained illegally. It involves introducing illegal proceeds into the economy, giving them the appearance of being legal activities, which allows criminals and criminal organizations to disguise the illegal origin of their product, without endangering its source.

1. Regulatory Framework and Institutional Structure

Law No. 19,913 created the Financial Analysis Unit (Unidad de Análisis Financiero or UAF) and modified various articles on money laundering.

The objective of the UAF is to prevent money laundering and terrorism financing in Chile by analyzing financial intelligence, issuing regulations, overseeing their compliance, disseminating information to the public and assisting in international cooperation in order to protect the country and its economy from the distortions generated by these crimes. The UAF's goals also involve following the guidelines of the Financial Action Task Force (FATF), the results of the assessments made by the Latin American Financial Action Task Force (Grupo de Acción Financiera de Latinoamérica or GAFILAT) regarding Chile and following the guidelines of the Egmont Group of Financial Intelligence Units.

As Chile's representative before GAFILAT, the Financial Analysis Unit coordinates the National Anti-Money Laundering and Terrorism Financing System, focusing on prevention, detection, prosecution and punishment of both crimes.

2. Violations, Sanctions and Penalties

Articles 19 and 20 of Law No. 19,913 regulate financial crimes and their respective sanctions applicable to individuals and legal entities supervised by the UAF that fail to act in compliance with their legal obligations:

- Minor violations and sanctions: correspond to violations of instructions issued by the UAF in memos known as circulars. The applicable sanctions range from a warning to a fine up to 800 Unidades de Fomento (UF).
- Mid-level violations and sanctions: correspond to violations of obligations related to the Reporting of Cash Operations and record keeping as detailed in Articles 4 and 5 of Law No. 19,913. The applicable sanc-

tion ranges from a warning up to a fine of UF 3,000.

- Serious violations and sanctions: correspond to violations of the legal obligation to deliver information and/or submit suspicious transaction reports, in accordance with the provisions of Article 2, b) and Article 3 of Law No. 19,913. The applicable sanction ranges from a warning up to a fine of UF 5,000.

3. Politically Exposed Persons (PEP)

The Financial Action Task Force defines a Politically Exposed Person (PEP) as an individual who has been entrusted with a publicly prominent function.

Due to their position and influence, many PEPs are in positions that potentially can be abused and by virtue of this are at a higher risk for potential involvement in money laundering and related crimes, such as corruption, bribery and activities leading to terrorism financing.

Examples of PEPs are heads of state or heads of government; high-ranking politicians; senior government, judicial or military officials; senior executives of state-owned companies as well as their spouses and family members up to the second degree by blood and individuals who are party to a joint action agreement giving them sufficient voting power to be influential in companies formed in Chile.

The entities supervised by the UAF must implement and execute, with respect to these persons, due diligence and know your customer practices, including:

- Establishing appropriate risk management systems to determine if a possible customer or beneficial owner is or is not a PEP.
- Obtaining and requiring, if applicable, senior management approval to establish business relationships with a PEP, or a person that has become a PEP when the business relationship is pre-existing to such status.
- Taking reasonable measures to define the source of wealth, the customers' source of funds and beneficial owners identified as PEP and the reason for the transaction.
- Implementing ongoing due diligence procedures and measures on the business relationship established with a PEP.

The regulated entities must record any transaction involving any person who must be classified as a PEP, and inform the UAF as soon as possible when they believe they are in the presence of a suspicious transaction.

4. Beneficial Owner

In Chile and for the purposes of applying anti-money laundering and anti-terrorism financing regulations, UAF Circular No. 57, dated June 12, 2017, defines a Beneficial Owner as:

- The individual or individuals who ultimately owns, directly or indirectly, through corporations or other mechanisms, a share equal to or greater than 10% of the capital or voting rights of a given legal entity or structure.
- The individual or individuals who, notwithstanding their direct or indirect ownership of less than 10% of the capital or voting rights of a legal entity or structure, through corporations or other mechanisms, exercises effective control over the legal entity or structure's decision-making.

inform their customers (individuals and legal entities) with whom they have a commercial relationship of any changes made regarding their beneficial owners.

d. Information in the Case of Foreigners. In the case of foreign customers, the financial institution is obliged to require the customer to specify the identity and address of the individual who has the most senior management position abroad and their legal representatives domiciled in Chile. The customer has 45 business days to report all the information regarding its beneficial owners, be they foreign individuals or foreign legal entities.

Further information is available at: www.uaf.cl

5. Parties Required to Report

All regulated entities in the financial sector, as indicated in the first paragraph of Article 3 of Law 19,913 in the framework of compliance with the obligation of due diligence and know your customer practices, must request from customers (both individuals and legal entities) a declaration containing sufficient identification data regarding the identity of their beneficial owners.

a. Information Form. To this end, the UAF has prepared a basic form (*available to all compliance officers on the Reporting Entities Portal, along with instructions for filling out the form*) that can be supplemented with additional information by the regulated entities themselves, based on the characteristics and complexity of the business they conduct. The request for information on the beneficial owners of a customer (individual or legal entity) must be made before or during the establishment of a permanent legal or contractual relationship between the customer and the respective financial institutions.

b. Occasional Transactions. In the case of occasional transactions made by an individual or legal structure for which there is no permanent customer relationship and this transaction is equivalent to or greater than US \$15,000 or its equivalent in Chilean pesos or in other foreign currencies of legal tender at the time of the operation or transaction, the obligation to fill out the same declaration form applies.

c. Customary Transactions. In the case of customers who are individuals or legal entities with whom the regulated entities already have an existing and permanent legal or contractual relationship prior to June 12, 2017, this procedure of identifying their beneficial owners must be done at least once a year or more often if deemed necessary by the regulated entity itself. Notwithstanding, regulated entities must

THE CHILEAN GOVERNMENT'S
FINANCIAL ANALYSIS UNIT
(UAF) HAS IN PLACE 44
AGREEMENTS ON THE
EXCHANGE OF FINANCIAL
INTELLIGENCE INFORMATION
CONCERNING MONEY
LAUNDERING AND TERRORISM
FINANCING.



UAF



CHAPTER XIII: FREE COMPETITION

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1. Regulatory Framework

In Chile, free competition is regulated by Decree Law (DL) 211 of 1974 and its amendments, whose aim is, in essence, “to promote and defend free competition in the marketplace.” This includes the obligation on the part of competent governmental bodies to:

- Guard against illegal anticompetitive practices, and
- Actively promote and foster free competition in the marketplace.

2. Institutional Structure

a. National Economic Prosecutor’s Office (Fiscalía Nacional Económica or FNE)

The FNE is a decentralized public service led by a National Economic Prosecutor appointed by the President of the Republic, whose function is to defend and promote free competition in all markets and sectors of the Chilean economy.

Antitrust Court (Tribunal de Libre Competencia or TDLC)

The TDLC is a special independent court established for the purpose of preventing, correcting and sanctioning violations of free competition regulations within national territory, in accordance with the terms of D.L. N° 211.

b. Supreme Court

The Supreme Court may hear and rule on appeals against the TDLC’s definitive judgments and rulings.

Further information is available at: www.tdlc.cl

3. Anti-competitive Conduct

The types of conduct liable to be sanctioned in relation to violations of free competition in the marketplace include:

- Anti-competitive agreements: agreements between different market participants intended to lessen market competition. For example: collusion, resale price fixing and exclusivity agreements.
- Abuse of a dominant position: acts performed by a company with a strong market position, aimed at hindering the competitive process. For example, predatory price fixing, price discrimination and/or refusal to make a sale or provide a service.
- Unfair competition: acts intended to divert the clientele of another market participant through illegitimate means. For example, damaging the reputation of another market participant.

4. Sanctioning Powers

The sanctions for violations of free competition regulations are listed in DL 211 of 1974 and its amendments, which state that “violations of free competition in economic activities shall be corrected, prohibited and/or suppressed in accordance with the terms of this law.”

In regard to fines, the TDLC will consider the following factors, among others:

- The economic benefit obtained as a result of the corresponding violation (if any);
- The seriousness of the conduct;
- The deterrent effect;
- Whether the violation is a repeated offense (having been previously convicted for anticompetitive acts over the last ten years);
- The economic capacity of the infringer, and
- The degree of the infringer’s collaboration with the Prosecutor prior to, or during the investigation.”

5. Sanctions

The law establishes the following sanctions for violations of the regulations related to free competition:

- Modifying or putting an end to the acts, contracts, arrangements, systems or agreements that violate the terms of DL 211;
- Ordering the modification or liquidation of the companies, corporations and/or other legal entities governed by private law, which were involved in the acts, contracts, arrangements, systems or agreements that violate the terms of DL 211;
- Applying fines in the amount established in Article 26 of DL 211;
- The law also considers the possibility of criminally prosecuting “whosoever promotes, orders, executes or organizes an agreement involving two or more competitors, aimed at fixing purchase or sale prices of goods or services in one or more markets; limiting their production or provision; dividing, assigning or allocating market shares or market locations; or affecting the result of tenders called by public companies, private companies providing public services, or government bodies.”

Further information is available at: www.fne.gob.cl

CHILE HAS 74 CURRENT
PROJECTS OUT OF 102
TOTAL CONCESSIONED
WORKS, EQUIVALENT TO
AN INVESTMENT OF MORE
THAN US\$24 BILLION.



PUBLIC WORKS MINISTRY



CHAPTER XIV: PUBLIC CONCESSION SYSTEM

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1. Regulatory Framework

Concessions are regulated by Decree 900 of 1996 issued by the Public Works Ministry, its amendments and the Concessions Regulations (MOP Supreme Decree 956 of 1997).

The law establishes that concessions are granted through public, national or international tenders, although the ministry may pre-qualify companies or consortia when the works are particularly large, complex or expensive.

2. Institutional Structure for Public Concessions

General Concessions Directorate

The General Concessions Directorate (Dirección General de Concesiones) is the public service responsible for managing national public infrastructure works, within the framework of public-private partnerships.

Its functions include:

- Studying private concession projects submitted by individuals;
- Scheduling tenders to contract studies, projects and execute public works;
- Proposing the administrative and economic terms and conditions that apply to tenders;
- Preparing the oversight rules for concession contracts and proposing amendments to concession contracts under construction or operation, and other functions.

Concession Council

The Concession Council (Consejo de Concesiones) is a consultative body at the Public Works Ministry (Ministerio de Obras Públicas or MOP) responsible for communicating the proposed infrastructure and the projects and modalities that apply to concessions. It is composed of the *Public Works Minister* and five councilpersons.

Concessions Technical Panel

The Concessions Technical Panel (Panel Técnico de Concesiones) is a standing, technical, independent panel, whose members are selected through the Senior Public Management System (Sistema de Alta Dirección Pública).

Its function is to issue “Recommendations” in the event of technical or economic discrepancies between the Public Works Ministry and the concession companies while the construction and operational stages of the concession contract are underway.

3. Concession Contracts

Concession contracts are governed by the rules in the Concession Regulations, which ensure an appropriate balance between the public and private sectors with respect to the rights and obligations of each party. They include dispute resolution mechanisms, mediation, arbitration and tools to facilitate project financing.

Concession contracts are either Build, Operate and Transfer (BOT) or Design, Build, Operate and Transfer (DBOT). Both types involve the private sector in the design, construction and operation of public works. When the concession term has finished, the successful bidder hands the works back to the State in optimum condition, in order to tender it once again.

4. Definitions

a. Concessions for Construction

After being awarded, the projects begin their construction stage with the preparation and approval of the final engineering plans and construction then begins. These contracts include urban and interurban roads, public buildings and hospital infrastructure

b. Concessions for Construction and Operation

These are public works that are already in operation, but have been tendered once again to expand and improve their infrastructure and service levels. This category includes interurban and urban road concessions, airport concessions and water solutions.

c. Concessions for Operation

These are works that have already been constructed and are fully operational. During this stage, the General Concessions Directorate must ensure that the infrastructure complies with the technical, operating and maintenance conditions associated with the contract.

d. Completed Concessions

These are works where the concession has already finished, either because the contract has expired or has been terminated for any reason, and a new concession is then tendered.

5. Types of Infrastructure Tendered

Concession contracts are used for sectors such as infrastructure and services; interurban and urban roads, airports, hospitals, prisons; and transportation infrastructure such as public transportation corridors, intermodal stations and Transantiago transfer stations, irrigation works and public buildings.

6. Concession Portfolio

A concession portfolio is created after the project evaluation, structuring and prioritization process, which may include public or private initiatives. The latter case requires a public interest pronouncement from the Concessions Council.

7. Concession Projects Schedule

The 2019 - 2023 concession schedule includes the public and private initiatives that will be tendered during this five-year period.

Progress or modifications to the project schedule will depend on several aspects, including environmental and territorial variables, engineering development, the evaluation of demand and legal issues and other aspects.

Projects in the schedule involve:

- Longitudinal connectivity: Refers to projects involving Route 5 (Chile's principal north-south highway).
- Transversal connectivity: Refers to road works that transversally connect Chile.
- Urban mobility and public transportation: Refers to works that improve public transportation such as trams, cable cars, trains and other vehicles.
- Airport connectivity: Refers to the structure of an airport network that includes new airport and airfield concessions.
- Social infrastructure: Refers to tenders for 18 facilities, which are part of the MOP's second hospital concession program.
- Infrastructure for efficient water use: Refers to the development of reservoirs and other works that will improve water resource use.





FOREIGN INVESTMENT PROMOTION AGENCY

HOW CAN WE HELP YOU?

The Foreign Investment Promotion Agency (Agencia de Promoción de la Inversión Extranjera), “InvestChile”, was created by Law 20,848 of 2015 issued by the Finance Ministry. Its purpose is to attract and encourage foreign investment in Chile by providing guidance and general information to potential foreign investors regarding the Chilean market, its legislation and other relevant aspects that facilitate investing in Chile, including capital entry, withholding and expansion.

Services Provided by InvestChile

InvestChile provides a range of services for each stage of the foreign investment cycle.

Pre-investment:

During the pre-investment stage, the agency provides important information for project evaluation, such as international rankings, macroeconomic figures, quality of life, political and social framework and other information;

general statistical information, such as demographics, cost data associated with energy, labor, real estate and other statistical information; specialized sectoral advice, such as the main characteristics of the sector/sub-sector, leading players, opportunities, market size, associated figures and responses to specific questions; assistance with field visits to explore the country’s infrastructure; public and private contacts; and general information on the Chilean legal framework covering taxation, labor, specific laws and other areas.

Landing:

During the landing stage, the agency can provide services that streamline company set up, such as support when requesting a Tax Number (Rol Único Tributario or RUT), processing visas, obtaining investment incentives and special permits, and managing issues with public agencies.

Aftercare:

After companies have been set up in Chile, InvestChile actively supports them during the aftercare stage by promoting and encouraging reinvestment and managing their issues with public agencies.

INVESTCHILE TOOLS TO POWER UP YOUR BUSINESS

We are an environmentally friendly agency strengthening our commitment to promoting sustainable development in Chile.

Our promotional material is mainly digital, which helps us to raise awareness of 'Why Chile' is the ideal place to invest so that your project prospers.



Sectoriales e-Books

Projections and opportunities in Food, Venture Capital, Energy, Mining, and Global Services in Chile.



InvestChile Talks

The Power of Dialogue.
Talks and virtual events with speakers from the public and private sectors on the economic situation and investment opportunities in Chile.



InvestChile Insights

Reports, studies and guides that address FDI-related topics.



ChinaDesk

Assistance, tools and contents in Mandarin to facilitate your arrival and expansion in Chile.



Portfolio InvestChile

This public-private portfolio includes over 120 projects in different industries, such as: Infrastructure, tourism, energy and mining.

HOW TO INVEST IN CHILE

SEPTEMBER
2021



STEP-BY-STEP GUIDE
for FOREIGN INVESTORS



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