

Doing Business in Chile



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Contact us in Chile

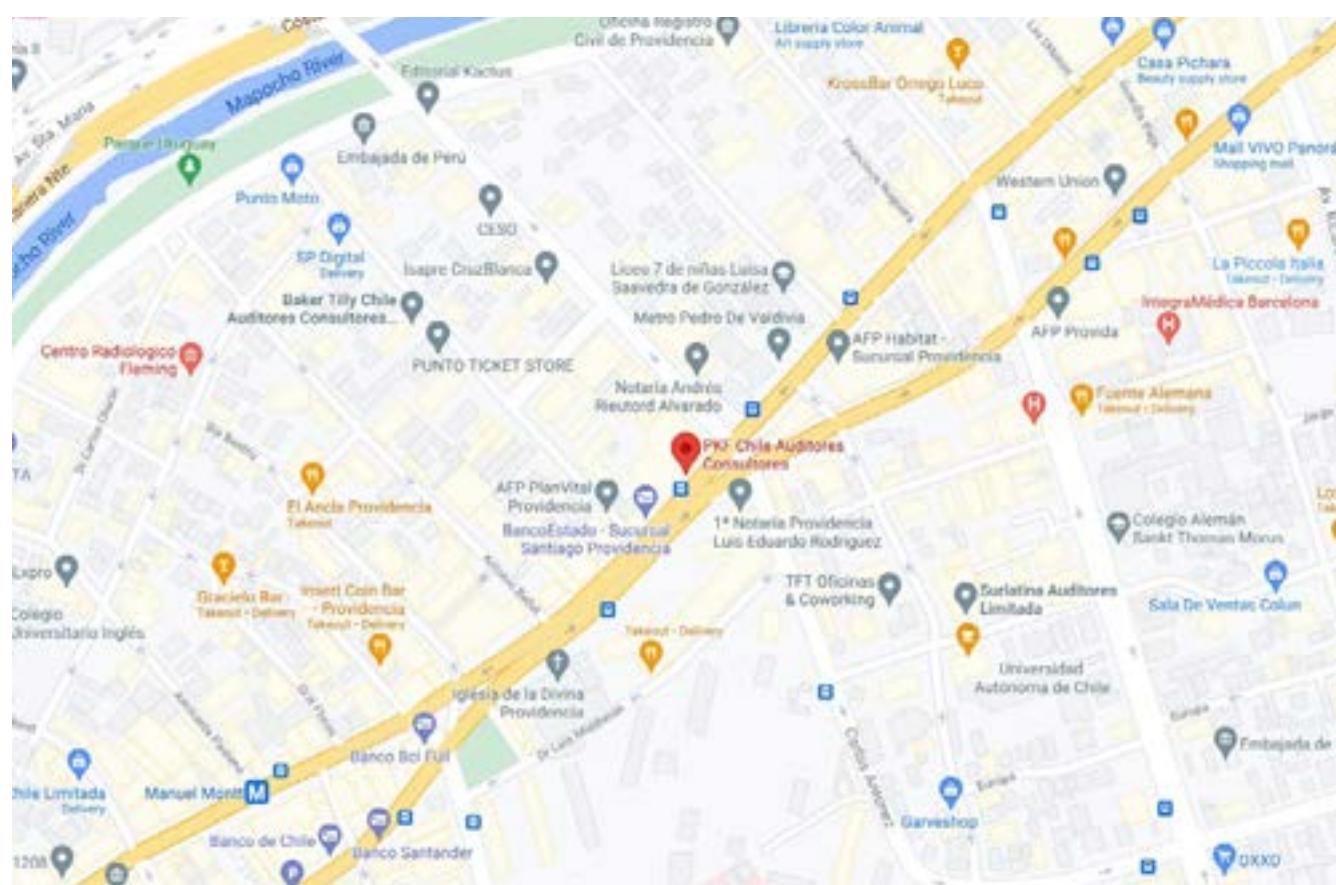
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Foreword

If you are considering doing business in Chile, this guide will help you understand all the issues you have to contemplate, starting from the demographic and environmental overview, consumer protection and special industries, forms of business organizations, accounting up to taxation.

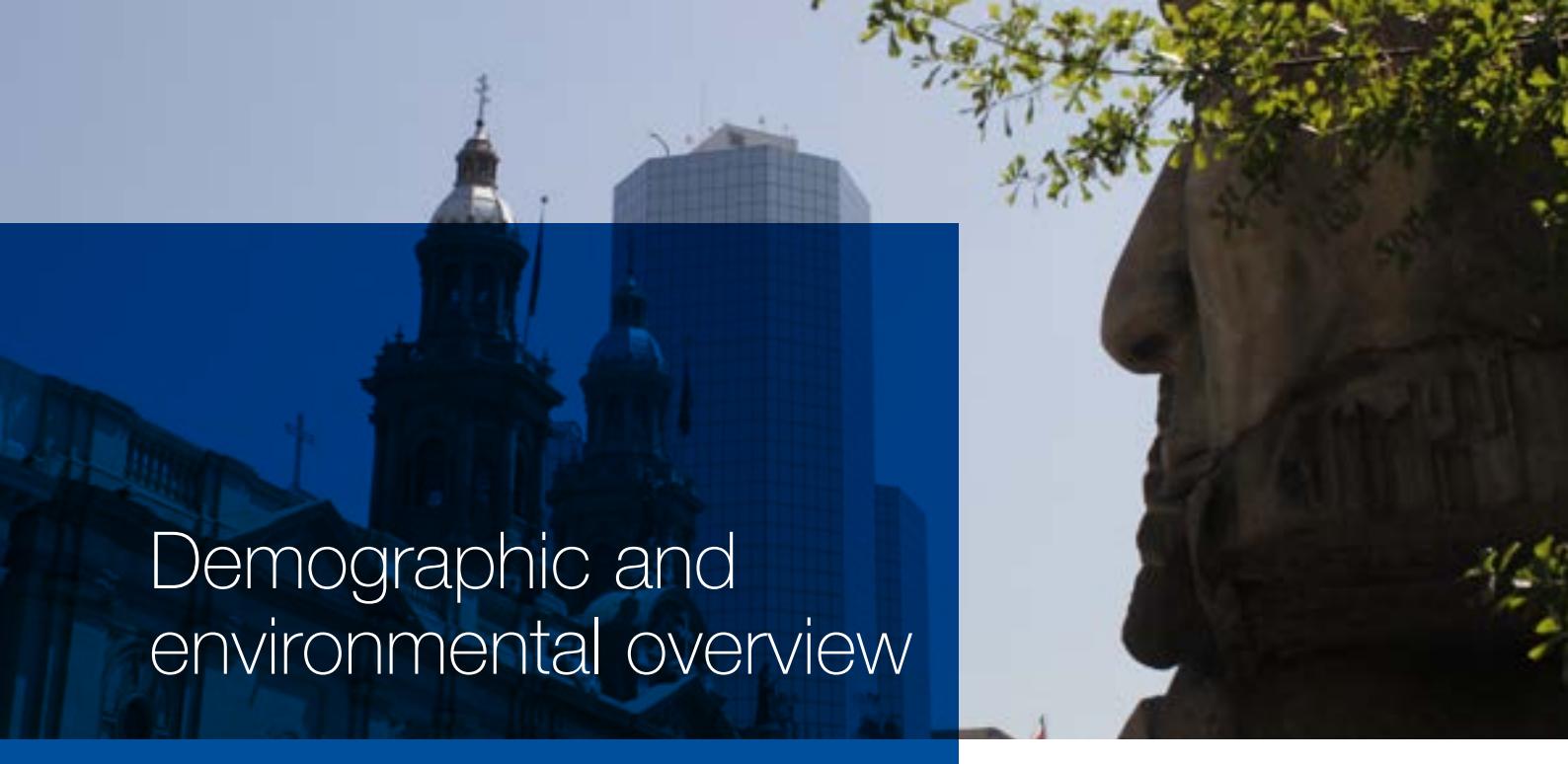
Chile is a reliable country and has one of the most stable economies in Latin America.

If you have any inquiries, please feel free to contact us at pkfchile@pkfchile.cl and we will answer you as soon as possible.

Regards,

Antonio González G

Managing Partner
PKF Chile



Demographic and environmental overview

A profile of Chile

Chile stretches along the west coast of South America from Peru in the north to the South Pole in the Antarctic. Its continental territory and offshore islands cover 302,500 square miles and the Antarctic territory 500,000 square miles. It borders on Peru in the north and on Bolivia and Argentina in the east. The continental territory is often described as a long and narrow strip of land. Its 2,700 miles' length (being a similar distance to that from Madrid to Moscow) explains the wide variety of climates ranging from the vast and rich mineral desert of Atacama in the north and the cold and icy islands and islets in the far south beyond the Cape of Horn. Between the extreme north and south, there are valleys, beautiful lakes and dense forests. However, most of the territory has a mild climate that is enjoyed by the majority of over 17 million inhabitants. Easter Island deserves special mention; an attraction for archeologists and tourists, full of ancient and mysterious monuments called 'moai' in the native language. It is located in Polynesia in the middle of the Pacific Ocean, 2,300 miles from the Chilean continental territory.

Chile has one of the highest schooling indices in Latin America and there are many well-known universities. For these reasons and owing to public and private educational and vocational training programs, Chile can also offer specialized manpower and professionals at reasonable costs.

Economic summary

Chile has a special link between the Asia-Pacific region and the countries of the east coast of South America (Brazil, Argentina, among others). The Chilean economy has evident advantages in the exploitation of some primary products such as those from mining. With its rich reserves of metal and non-metal minerals, Chile has a privileged position amongst the mining nations of the world. Its vast deposits of high grade ores contain a significant percentage of the world's reserves of certain minerals like copper, rhenium and molybdenum. Important amongst its non-metal reserves are nitrates, iodine, sulfur and lithium. In fact, Chile is one of the world's leading producers and exporters of copper, molybdenum, sodium nitrate and sodium. It also ranks among the top fishing nations in the world. Owing to this, it is one of the largest producers and exporters of fish meal. Chile also exports wood, pulp, fresh fruit, wine, salmon and other fish,. Forestry is also important and the main species planted is insinis pine (one of its comparative advantages lies in Chile's climatic and geographical conditions that make the tree grow faster). This activity has been encouraged through tax exemptions and financial incentives. Due to Chile having the longest coastlines in the world, with over 2,400 miles of coastline, renewable marine resources are very important too. Its variety of climates throughout the country allows for diverse agricultural activity.

Major imports are oil and other fuels, foodstuffs, machinery and vehicles, manufactured products, raw materials and chemical products.

The government levies customs duties on goods entering Chile. However, lots of goods can be imported free of customs duties when they originate from countries with which Chile has signed a free trade agreement. Customs clearance must be obtained to import any goods. There are imports controls on certain goods (drugs, animals, plants, food, firearms, etc.). The import of certain goods is not allowed such as used cars and motorcycles, used tires, asbestos and products considered hazardous for animals, agriculture and human health (some pesticides, toys containing toluene).

Services and exchange controls

Internal and external communications and transportation are excellent and meet the requirements of all economic activities. Chile has a very efficient integrated telecommunications system providing telephone (fixed and mobile units), data transmission, etc., and allowing direct and instantaneous communications inside the country and with the rest of the world. Major airlines land and take off regularly in the main international airport and several airlines cover domestic flights. There are a lot of ports along the coast through which vessels transport imports and exports. The country has excellent highways and roads which connect cities and even small towns.

There are minimum requirements to bring capital into Chile and send it back and a special law to guarantee fixed and favorable regulations to investments is available to foreign investors. Many multinational enterprises have established their regional headquarters in Chile to make investments in other Latin American countries.

Exchange controls on the movement of capital, profits, loans, investments, credits and deposits have been substantially reduced and the procedures simplified. In such cases, entities are only required to make currency transfers of USD 10,000 or more, both into and out of Chile, through an institution belonging to the formal exchange market which reports them for registration by the Central Bank of Chile. The transfer of currency directly out of Chile must be reported as well.

Suspect transactions must be reported to the Central Bank of Chile.

Chile today

Chile is a unitary republic, and the government and administration of the State are vested in the President of the Republic. From an administrative and governmental point of view, Chile has been divided into fifteen regions and these into provinces which are subdivided into local administrative units called communes.

Chile enjoys political stability and the President of the Republic and communal authorities are democratically elected. Members of the National Congress (the Chamber of Deputies and the Senate), which exercise the legislative power, are democratically elected as well.

National legislation is applicable to everybody inside the whole territory. Every law, decree, regulation or other official rule is published in the Official Gazette and it is assumed to be known by everybody from that date.

In 2020, Chile held a national plebiscite which resulted in a mandate for a new constitution. An election took place in May 2021 to form the Constitutional Convention, a body charged with drafting the new constitution.



Consumer protection and special industries

Intellectual and industrial property rights

Intellectual and industrial property rights are guaranteed by the Constitution, according to the law.

Copyright is protected in Chile by Law 17336 of 1970 and the copyright owner resident in Chile has the right to use the work directly and personally, to transfer the rights on it totally or partially and to license others to use it either copying the work, performing it in public, broadcasting, publishing or adapting the work. Protection of copyright of owners not domiciled in Chile corresponds to that recognized by Chile in various international agreements.

Law 19039 of 1991 called Law of Industrial Property gives the exclusive use of a registered trade mark to its registered proprietor. Owners of trademarks in other countries must register them in Chile to benefit from protection. When the registration of a trademark had been submitted abroad, the applicant will have priority for a term of six months to submit the application in Chile.

Chilean law states that trademarks include every sign capable of being represented graphically, among which are words, names of people and letters. So, trade names are an example of industrial property that can be registered in Chile and which, following registration, cannot be used by others in business.

The aforementioned law gives a patent holder the exclusive right to exploit an invention, whatever form it takes, or allow others to do so. Protection is only provided where a Chilean patent has been granted.

Consumer and user protection

The relationship between suppliers of goods or services and consumers is regulated by Law 19496 on the protection of consumer rights. This law states the rights and obligations for consumers and companies and includes the right to have accurate and timely information on the goods and services offered, their price and contracting conditions, etc. It also covers the obligation to guarantee products, the right to retract a purchase, the requirement to respect the provisions of the contracts, arbitrary non-discrimination by companies that supply goods or services, the regulation of misleading advertising and the formation of consumer associations and collective actions when the rights of consumers are violated. There is a governmental office called Sernac that controls the fulfillment of the law and to which the consumer may submit complaints.



Legal framework for business



Accounting regulations in Chile

The general rules on accounting records are stated in the Code of Commerce. IFRS are the fundamental financial accounting standards and have been required for accounting purposes since 2013.

The results of a business for tax purposes are mostly determined through reliable accounting records. In such cases taxpayers must adjust the systems and the preparation of inventories to appropriate accounting practices, which clearly reflect the movement and results of their business. Taxpayers have to submit their financial statements and associated accounting records when required by the Chilean Internal Revenue Service (IRS).

Accounts controls in Chile: Statutory audits

They are not required except for publicly traded corporations and other regulated corporations or partnerships (e.g. entities registered with the Register of Securities, banks).

Content of financial data to be published: Annual accounts

Financial statements must be sent periodically by the abovementioned entities to the relevant governmental supervisory institution and they have to be prepared for different periods stated by the supervisory institutions, depending on the type of entity supervised.

Companies that must publish financial information do so through the financial statements which comprise the statement of financial position, the cash flow statement, the statement of changes in equity, the notes to the financial statements and a reasoned analysis. The foregoing is without prejudice to any other specific information required by the authority for certain types of activities.

Legal audit limits

Except for regulated entities, there is no law that requires companies to have audited financial statements.



Forms of business organizations

Setting up a Chilean company

There are several forms to set up an enterprise; each one has its own characteristics and they are subject to different regulations. The following forms may be adopted:

Individual enterprises of limited liability

Individual enterprises of limited liability are legal entities formed by only one person, who is liable up to the amount they have committed to contribute as capital through a duly notarized deed. This means that personal and business property is kept different and separate. There is a specific law which contains the regulations on these enterprises.

Partnerships

Partnerships are defined as associations between two or more parties conducting business in common with the objective of sharing profits and losses. The rules on partnerships are stated in the Code of Commerce and other laws. They are incorporated by means of a notarized deed. A summary must be filed with the Register of Commerce and published in the Official Gazette within a 60-day period.

There are several types of partnerships which characteristics are as follows:

- General partnerships

Each partner is responsible, joint and severally, for the legal liabilities of the partnership, even with their private property. In a general partnership all the partners manage the partnership individually or through an elected representative.

- Limited liability partnerships

These differ from general partnerships since each partner is responsible for the legal liabilities of the partnership, limited to either the amount of capital contributed or a higher amount specified in the partnership deed.

- Limited partnerships

This is a partnership formed by two types of partners:

- Managing partners with an unlimited liability for the debts and losses of the partnership.
- Shareholder partners who provide all or part of the partnership's capital. Their liability is limited to the amount of their contributions and they have no right to manage the partnership. This partnership is called a 'simple limited partnership', or a 'limited partnership with share capital' if the partners' capital is represented by shares.

Corporations

Corporations are ruled by Law 18046 of 1981 and require more than one shareholder. According to this law, there are three different types of corporation:

- Publicly traded corporations

They are voluntarily or by legal obligation listed in the Register of Securities.

These corporations are subject to the supervision of the Financial Market Commission

- Special corporations

They are insurance and reinsurance companies, mutual fund administrators, stock exchange companies and others which require an authorization from the Financial Market Commission to get their legal existence.

- Closely held corporations

These corporations are ones which are neither publicly traded corporations nor special corporations.

Corporations either publicly traded or closely held are incorporated by means of a notarized deed. A summary must be filed with the Register of Commerce and published in the Official Gazette within a 60-day period.

Notarized deed

It must contain as a minimum the following items:

- The names, professions and addresses of the shareholders that are starting the corporation.
- The name, domicile and specific object or objectives of the corporation.
- The term of the corporation. If a specific term is not given, it is presumed to be unlimited.
- The capital of the corporation and the number of shares, indicating any preferred series of shares and privileges, whether the shares have a par value or not, the way and terms on which the shareholders must pay in their contributions and the valuation assigned to any contributions that are not made in cash.
- How the corporation is to be administered and how the administration will be supervised.
- Closing dates for the financial information, balance sheet and the general shareholders' meeting.
- How the corporation will distribute its profits.
- How the corporation will be liquidated.
- How disputes among the shareholders or between the shareholders and the corporation are to be decided. Otherwise, it is understood that disputes will be submitted to arbitration.

- The names of the participants of the provisional Board of Directors.
- The frequency of the Board of Directors' meetings and how these will be arranged.

Capital

One third of the initial capital must be subscribed and paid when the deed is rendered.

The initial capital should be fully subscribed and paid in a period not longer than three years after the date the deed is signed. Otherwise the capital will be reduced to the amount actually subscribed and paid.

Management

Corporations are managed by a Board of Directors elected by the general shareholders' meeting. The minimum number of directors is three in a closely held corporation and five in a publicly traded corporation. When the latter has equity of USD 56 million and at least 12.5% of its issued shares giving the right to vote belong to shareholders controlling less than 10% of such shares, the number of directors shall be seven and a Committee of Directors and an independent director shall be appointed.

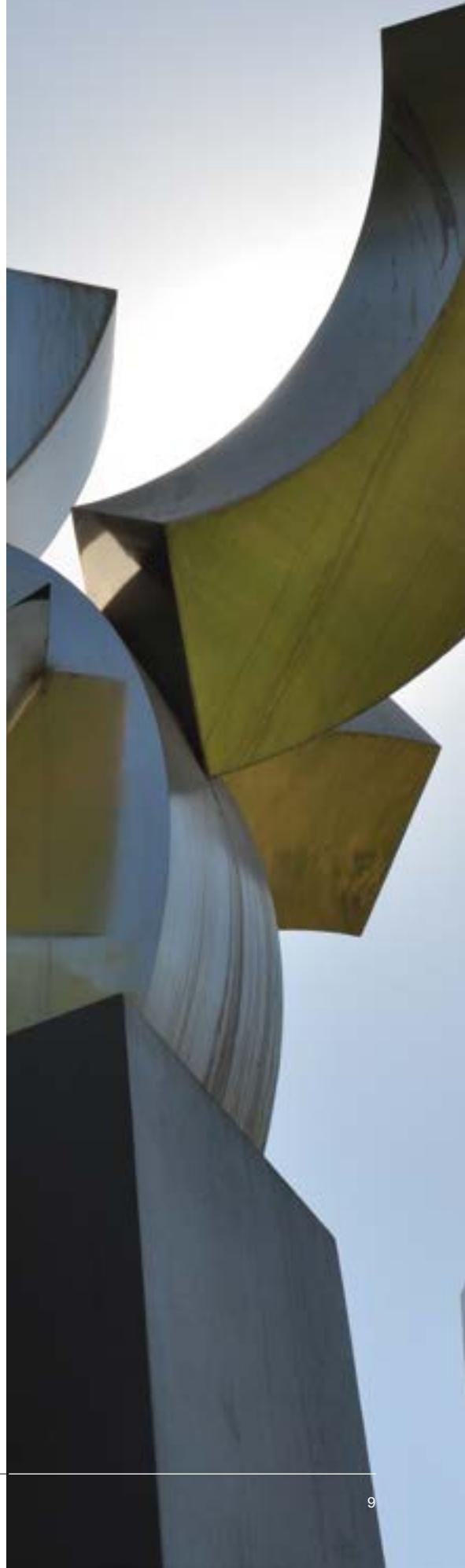
According to the law, it is not necessary to grant special powers to the Board of Directors, because it has all the rights of management and decision that the law has not established as belonging exclusively to the general shareholders' meeting. The directors appoint the manager or general manager.

The directors are subject to several specific duties, prohibitions and limitations stated in the law or by the Financial Market Commission. They must provide to shareholders and to the public sufficient, reliable and timely information regarding the legal, economic and financial situation of the corporation. They are also responsible for the accounting records and other registers which the corporation must maintain according to the law.

The directors are jointly and severally liable for damages caused by their performance to the corporation, the shareholders and the public owing to guilty or malicious acts, with penalties consisting of fines or imprisonment.

The guilt of the directors is assumed if the corporation does not maintain its books and registers.

Certain kinds of corporation (such as insurance companies, mutual funds administrators, securities exchange businesses, pension fund administrators, private health care institutions of the welfare system) have their own specific legal regulations regarding incorporation, administration, control, delivery of information, etc.



Each one of the last two types of corporation (pension fund administrators and private health care institutions of the welfare system) is subject to a different Superintendence that supervises the respective area of business. However, all of them are also subject to the Law of Corporations applicable to publicly traded corporations.

Banks and finance companies are ruled by a special law and secondarily by the Law of Corporations, and they are supervised by the Financial Market Commission.

All these special entities need a prior authorization to be created or to develop the respective activity, for which they have to file an application or a prospectus in some cases.

Companies by shares

This is a kind of a corporation in which the capital is divided into and represented by shares which can be sold by the shareholders through a private contract. The shareholders are liable only up to the amount of their capital contribution. With the exception of some specific aspects stated in the law, the rest of the governing provisions can be freely agreed by the shareholders in the by-laws. Where the by-laws are silent, the regulations applicable to corporations closely held shall be applied, considering the nature of this type of company.

Companies by shares can be formed by only one person or legal entity. From a tax point of view they are considered corporations.

Opening a branch

The foreign corporation must appoint an agent or legal representative to set up a branch in Chile. The following documents are required:

- proof that the corporation is legally incorporated abroad and a certification that the corporation is still in existence.
- authenticated copy of the corporation's current statutes.
- general power of attorney issued by the corporation to the agent that will represent it in Chile; the power of attorney must state clearly that the agent acts in Chile in the corporation's name with full powers.

These documents must be notarized by a notary public in Chile. They must be written in the official language of the foreign country, translated into Spanish and also must be duly legalized.

Likewise, by notarized deed, the agent shall state: the name used in Chile, confirmation that the corporation will maintain in Chile realizable assets to cover the liabilities that must be served in Chile, the object or objects, the effective capital assigned in Chile for its operations and the domicile of the principal agent, among others.

Finally, within 60 days, a summary of the notarized documents must be filed with the Register of Commerce. Within the same period, the summary must also be published in the Official Gazette.

Where a branch of a foreign limited liability partnership is to be established, a power of attorney must be issued to the agent that will represent the branch in Chile.

Purchasing shares in an existing company

Any person or foreign juridical entity that wishes to make an investment through the purchase of shares in an existing company in Chile must apply for its registration with the Unique Tax Number Register and obtain the tax identification card (RUT card). These procedures must be carried out with the Chilean Internal Revenue Service (Servicio de Impuestos Internos). However, taxpayers without domicile or residence in Chile, whose Chilean source income comes only from certain investments or operations such as stocks, bonds, promissory notes and derivatives, can operate through banks and other institutions that operate in Chile as their 'responsible agents for tax purposes in Chile'. In this case, they must obtain a RUT number through the simplified procedure applied by said agents, and they will be released from the obligations to give notice of the start of activities, keep accounts and annually present a sworn statement of their income from such capital or operations. Operations may be carried out directly by taxpayers, their representatives or intermediaries.

Nevertheless, when they require the entry of foreign currency to the country, they must do this as indicated in the following paragraph.

Capital (over USD 10,000 or equivalent in other foreign currency) must be brought to the country through the formal exchange market, that is, banks and authorized financial institutions, which receive the funds and register the investment with the Central Bank of Chile.

Purchasing real estate property in Chile

For the purchase of real estate, the tax identification number must be obtained and the foreign currency brought to Chile must be registered, in accordance with the basic procedure described in the previous paragraph.



Taxation

The Chilean tax system

The Income Tax Law classifies income into categories and the tax is applied according to the activity through which the income is generated. It also considers final taxes (complementary global tax or additional tax) applicable to global taxable income. The classification is as follows:

Category taxes

- The first category tax at a fixed rate is applied to income from industry, commerce, mining, fishing, agriculture, real estate, investments and other activities that involve the use of capital. All income not specifically taxed under another category and not exempt from tax is included. The tax rate is 27%.
- Second category tax on income from employment as an employee. Income of self-employed people and professionals is classified as second category income but it is not subject to second category tax; rather, global taxes apply.

Global taxes

- Global complementary tax on the total income from both categories made by resident individuals. It is a progressive tax with a maximum rate of 40%.
- Additional tax on the total income from both categories of non-resident individuals or non-domiciled companies. In some cases it is a sole tax applicable on the income. There are various tax rates applicable to different types of income. Income tax derived from activities developed in Chile is applied at a rate of 35%.

Specific tax on mining activities

Specific tax on mining activities is a progressive tax applicable on taxable income deriving exclusively from the sale of mining products. The progressive tax rate is determined considering the annual amount of sales. If annual sales exceed the total value of 50,000 metric tons of fine copper, a higher progressive tax rate is applicable on the mining operational margin.

Sole special tax (Article 21 Income Tax Law)

This tax is applicable on certain disallowed effective expenses incurred by taxpayers (individual entrepreneurs, corporations, partners and others). The tax rate is 40%. If disbursements benefit the entrepreneur, a partner, stockholder, etc., the corresponding amount must be included in their own income tax return and triggers a surcharge of 10% of the total attributed amount.

Corporate tax (IS)

As mentioned in the section 'The Chilean tax system', income from activities that involve the use of capital are subject to this tax. A rate of 27% is applied for companies that pay under the semi-integrated or partial use of the first category tax credit, regardless of the legal structure of the taxpayer (individual, company or other) or its residence or domicile. With the exception of specific cases, taxable income consists of gross assessable income less allowable deductions. It is generally determined taking into account the results of the financial statements based on full accounting records. In this system, the profits will only be subject to the global or additional tax that affects the investor (individual, partner or shareholder) at the time of their withdrawal, distribution or remittance abroad. Irrespective of whether profits are withdrawn, distributed or remitted abroad, the credit against the final taxes of the owners (for the first category tax paid by the company) is accumulated and recorded in a special accounting record for tax purposes, called accumulated credit balance (SAC).

Taxpayers required to declare their income subject to this tax, based on the results of a balance sheet derived from full accounting records, are subject to a partially integrated regime as a general rule. Under this regime, owners may partially use the first category tax paid on annual profits (65%) as a credit against personal income tax. They should include in their own income tax return only the profits distributed by the company and the corresponding credit. The restriction on the use of corporate tax as a credit will not be applicable to investors who reside or are domiciled in those countries that have signed a treaty with Chile to avoid double taxation on income, as a tax credit is granted to avoid or reduce double taxation (equivalent to the first category tax) or the treaty may contain another clause that produces the same effect. By special provision, the aforementioned is also applicable until the year 2026 to investors domiciled in the United States and the United Arab Emirates.

Micro, small and medium-sized enterprises (SMEs) which meet certain requirements can benefit from a special tax system, in which the first category tax is applied to the result determined on a cash basis, that is, income and effective disbursements. The tax rate in this case of 25% and the amount paid can be used in full as a credit against final taxes.

From a tax point of view, taxpayers required to determine their tax results based on a balance sheet derived from full accounting records will determine a tax loss if the allowable deductions exceed the taxable income. The tax loss must be charged indefinitely to the income of the following years. Temporarily, for the years 2020 to 2023, the law allows tax losses to be attributed to dividends and withdrawals of profits received in the respective fiscal year, resulting in the reimbursement of said credit. This imputation will be made in a decreasing way from the 2020 business year (90%, 80%, 70% and 50% in 2020, 2021, 2022 and 2023 respectively. Within these parameters, the first category tax that would have affected the income received, which is absorbed with the loss, will be returned by the Treasury.

Personal income tax (IRPF)

Employees are subject to a second category tax on income from employment. It is a progressive tax with a maximum rate of 40% and is determined on a monthly basis. In addition, residents in Chile could be subject to the global complementary tax on their total income. This is also a progressive tax with a maximum rate of 40% and is determined on an annual basis.

Non-resident income tax (IRNR)

Additional tax is applied on the total income of non-resident individuals or non-domiciled companies. In some cases it is a sole tax applicable on income. There are various tax rates applicable to different types of income. Income tax derived from activities developed in Chile is levied at a rate of 35%.

Wealth tax (IP)

Wealth tax does not exist in Chile.

Inheritance and gift tax (ISD)

A special law states the taxation on gifts and inheritances. Some gifts and transfers are tax exempt, such as those for public charity, with educational purposes or science improvement. The amount of each transfer or the amount corresponding to each heir or heiress is taxable separately. It is a progressive tax and the scales range from 1% on a taxable amount of 80 UTA (approximately USD 64,000) up to 25% on amounts exceeding 1,200 UTA (approximately USD 960,000).

UTA or Annual Tax Unit is equal to 12 times the Monthly Tax Unit of December, indexed to inflation.

Value added tax (VAT)

Value added tax (VAT) is levied on the supply of goods sold by a customary seller, services other than those rendered by employees and consultants and on goods imported into Chile. The customary sale of real estate (land excluded) is taxed as well.

Currently the VAT rate corresponds to 19% of the value of the transaction.

VAT affects the end user of the goods or services. VAT is paid by the supplier of the goods or services. However, the final price of the goods or services includes the VAT surcharge paid by the supplier. In the case of imports, the taxable base is the CIF (cost, insurance and freight) value determined by the Customs Service, including duties.

Additionally, the supplier is entitled to the VAT credit that it pays on imports, purchases and services received related to its taxed activity. Therefore, the VAT is paid on the added value at each stage of the process of transferring the goods or services to the end user for personal consumption.

The taxpayer must file a monthly tax return. The remainder of the VAT credit with respect to the VAT debit can be deducted in subsequent months.

A special case is the simplified regime applicable to service providers without domicile or residence in Chile, with respect to some services provided to users residing in the country. Such services include the supply or delivery of digital entertainment content (such as videos, music, games or similar) through downloading, streaming or other technology (including for these purposes, texts, magazines, newspapers and books) and the provision of software, storage, platforms or computing infrastructure. Such service providers must charge and withhold the tax when the provision is made to a person who is not a VAT payer, who uses said services in the national territory. For such purposes, service providers must register in a special registry kept by the Internal Revenue Service. These taxpayers can choose to declare the tax for the operations carried out in each calendar quarter. They are released from several of the administrative obligations that affect taxpayers domiciled in the country, such as the issuance of sales tickets or invoices for each service provided, and they are not entitled to a tax credit for eventual purchases or services they receive.

Exports of all products are zero-rated for VAT purposes. In such cases, VAT paid on imports, local purchases and services that are necessary to produce the exported goods is either deducted from other VAT due or refunded. Sea and air transport, as well as services rendered to non-resident entities, are deemed to be exports by the Customs Service and are treated in the same way.

VAT paid on imports, acquisitions or services received, when incidental to operations exempt from VAT (unless they are exports) or not related directly to the activities of the seller, is not recoverable.

Capital transfer tax and stamp duty (ITP and AJD)

No taxation is applied on capital transfers made in currency.

Special tax and duties (IIEE)

Stamp tax (Decree Law 3475)

This tax affects basically the bills of exchange, promissory notes and any document involving loans and especially borrowings (including foreign ones), and is calculated either on the amount expressed on the document or on the amount of money involved. The tax rate is 0.066% for each month or part-month that passes from the issuance of the document to its due date, with a maximum total rate of 0.8%.

Documents issued at sight or without a due date are subject to a 0.332% flat rate.

Documents issued in connection with foreign loans from multilateral financial organizations are tax exempt.

Property tax (Law 17235)

Real estate subject to property tax is appraised by the IRS and the appraisal includes the land, constructions and fixtures.

According to the law non-agricultural real estate is subject to a rate of 1.4% and 1.2% annual property tax. However by Decree 458 of 2018 the rate were fixed in 1.088%. Likewise according to that Decree 458, constructions for housing are tax exempt up to the amount of approximately USD 47,000. The taxable part is subject to 0.933% up to the value of approximately USD 167,000, and 1.088% on the excess.

Agricultural real estate is subject to a 0.514% tax rate on the assessed value in excess of approximately USD 32,000.

The payment is made in four quarterly installments. It allows the owner or usufructuary a credit against the first category tax when it is an agricultural real estate that produces taxes subject to such category, and for building and real estate companies for the real estate they build or order to build and is destined to be sold.

There is a surcharge of 0.025% on the taxable value which can reach up to 100% of the applicable tax rate, in some cases.

Mines, machinery and fixtures are not included among the immovable property subject to property tax.

Import duties

The general customs duty rate is 6% ad valorem for virtually all imported goods and products. The rate is 0% on the import of capital goods included in a list fixed by the Ministry of Treasury.

There are bilateral agreements (free trade agreements) with several countries in order to eliminate customs duties in different terms. Customs duties are also eliminated in the agreements signed with the European Union, Mexico, Canada, the United States, China, South Korea, the state members of the European Free Trade Association, Australia and others. Chile is an associate member of Mercosur (Southern Common Market) is an economic block made up of several South American countries and created with the objective to increase efficiency and competition among the included economies). There is also an economic strategic association agreement with Japan.

Tax on insurance premiums

Insurance premiums paid to non-domiciled companies are subject to a 22% additional income tax rate. Reinsurance premiums paid to non-domiciled companies are subject to a 2% additional income tax rate.

Local taxes

No local income taxes are payable in addition to central government taxes. However, enterprises have to pay an annual municipal license, calculated on the taxpayer's equity at a minimum rate of 0.25% and a maximum rate of 0.5%, set by each municipality. The total amount cannot exceed 8,000 UTM (approximately USD 532,000), which is allocated among the municipalities in which the taxpayer has an office, factory or other establishment.

UTM or Unidad Tributaria Mensual is a unit linked to inflation, defined in Chile as an amount of money expressed in pesos and determined by law. The UTM is continually updated by the Consumer Price Index (CPI).



Labor law

An outline of employment law

Labor relations between employers and workers are basically regulated by the Labor Code. It applies the principle of non-discrimination, except insofar as particular qualifications are required for a job. The Labor Code contains regulations on aspects such as the individual employment contract and job training (special contracts, salaries, working hours, termination of the contract, treatment of people with disabilities, etc.) and norms on workers' protection (protection of maternity rights, paternity rights and family life; social insurance against the risk of occupational accidents and diseases). It also contains regulations on union organizations, collective bargaining and labor jurisdiction.

Recruitment

The recruitment process must not be subject to distinctions, exclusions or preferences which would contravene the principle of equal opportunity and treatment in employment. Such distinctions include those based on race, color, sex, motherhood, breastfeeding, age, marital status, union, religion, political opinion, nationality, national ancestry, socio-economic situation, language, beliefs, participation in union organizations, sexual orientation, gender identity, affiliation, personal appearance, illness, disability and social origin.

The Labor Code requires that at least 85% of a company's employees are Chilean citizens. However, expatriates with more than five years' residence in Chile, people married to Chilean citizens and technicians who cannot be replaced by Chileans are not included in the limitation. This limitation only applies when a company employs more than 25 workers.

Employers are not allowed to impose conditions on their employees in respect of the absence of obligations of an economic, financial, banking or commercial nature that, according to the law, may be communicated by those responsible for records or personal data banks; nor demand for such purpose an affidavit or certificate. Only workers who are entitled to represent the employer, and the workers who are in charge of the collection, administration or custody of funds or securities of any nature are excepted. Similarly, employers cannot discriminate during the recruitment process against individuals who have or have had cancer.

Standard regulations for employment contracts

The employment contract is a mutual agreement; a written contract must be provided within a period of 15 days after the worker has been appointed or after five days in the case of contracts for specific work or services lasting less than 30 days. Two copies of the contract must be signed, with one retained by the employer and one by the employee.

The employment contract must contain, as a minimum, the following stipulations:

- a) Place and date of the contract.
- b) Specific data in respect of the parties to the contract, including the employee's nationality, date of birth and income.
- c) Determination of the nature of the services and the place or city in which they are to be provided. The contract may indicate more than one specific, alternative or complementary function.
- d) Amount, form and payment period of the agreed remuneration.
- e) Duration and distribution of the working day, unless the company has a system of shift work, in which case the provisions of the internal regulations would be followed.
- f) Term of the contract.
- g) Other terms agreed by the parties.
- h) The additional benefits provided by the employer in the form of a house, light, fuel, food or other benefits in kind or services should also be stated, if applicable.. When an employee is required to relocate, their former address must be indicated.

Visas and work and residence permits

The entry and residence of a foreigner in Chile are governed by law; the complexity of these rules depends on the purpose or circumstances of entry into the country. This process can sometimes involve the participation of several government entities.

The following are common ways a foreigner may enter and reside in Chile, for which an appropriate visa must be obtained:

Tourists

A foreigner is considered a tourist if they enter Chile for reasons such as recreation, sport or health purposes, for negotiations or exploratory business visits or for investment purposes, without the intention of migration, residence or development of remunerated activities. Expatriates can stay in the country as tourists for up to 90 days.

Citizens of some countries do not need to obtain a tourist visa for entry into Chile.

Temporary residence

Temporary residence may be granted in the following situations:

1. Residence subject to labor contract

Such a visa only allows the foreigner to carry out the job for which they have been hired. This type of visa lasts for up to two years, but can be renewed indefinitely for new periods of two years. However, where a foreigner has stayed in Chile for two years under this type of residence, it is possible to apply for permanent residence in the country.

2. Temporary residence for other reasons

A foreigner with family connections, interests in the country or whose stay is considered useful or advantageous can obtain this type of visa. The visa can be extended to members of the foreigner's family who live with them. The holder is allowed to carry out any kind of activities without specific limitations. The visa lasts for up to one year and is renewable for only one more year, after which the foreigner must apply for permanent residence or leave the country.

Foreign professionals, technicians or highly qualified people may obtain this type of visa when required by juridical national entities or sponsored by international organizations recognized by the Chilean government.

Student residence

This type of visa allows study in educational institutions recognized by the State of Chile and lasts for up to one year or for the duration of the scholarship. It is renewable up to the completion of the studies. When the foreigner proves they have completed their studies, they can apply for permanent residence.

Refuge and political asylum

Chilean authorities may grant this type of visa to protect the personal security of a foreigner when political circumstances in their own country have forced them to seek asylum.

Permanent residence

In order to apply for permanent residence, foreigners must have stayed in Chile for a specified period; this period depends on the type of visa that was granted on entry to Chile:

- **Residence subject to labor contract** – two years of uninterrupted residence in Chile are required.
- **Temporary residence** – this requires a year of residence.
- **Student residence** – two years of residence are required and the student must have finished his/her studies (either professional or high school).

Permanent residence visa may implicitly be revoked if the holder stays more than one year outside the country without asking for an extension.

Work permits

As noted above, foreign nationals are prohibited from working in Chile unless they first obtain the appropriate type of visa (such as a permanent residence visa or temporary residence visa). However, foreigners may apply for a work permit while their visa applications are in process or when a foreigner with a student visa needs to work.

Social security

Both the employee and the employer must make social security contributions in favor of the former. Such contributions are used to finance the pension plan, healthcare insurance, work accidents, unemployment periods and other social aspects.

Set out below are the current legal rates of social security contributions that the employer has to pay, as well as those that must be withheld from the salary of employees, with a cap set by law:

a) Employers

Unemployment insurance	0.8% to 3% (depending on the kind of labor contract and the length of time the employee has been making his/her own contribution).
Disability and survival insurance	1.99%
Heavy duty contribution	1% or 2%
Labor accident insurance (including Sanna Law)	0.93% (plus a differential rate up to 3.4% based on the risks of the business).

b) Employees

Pension	10.69% up to 11.45% (depending on social security institution).
Healthcare	7%
Unemployment insurance	0.6% (this contribution must be paid during a period of 11 years in each labor contract).
Heavy duty contribution	1% or 2%.

Social security contributions are applicable on a maximum amount of around USD 3,000, except the contribution for unemployment insurance which is applicable on a maximum amount of around USD 4,500.

Notwithstanding the above, employees may be exempt from the above mandatory deductions if the employee meets the requirements set forth in Law 18156, which are as follows:

- To have a technical degree, that is, possessing knowledge on a science or art, proven by means of certificates of specialized or professional studies.
- To be subject to a pension or social security system abroad which grants benefits, as a minimum, in cases of disease, old age and death, evidenced by means of certificates from those foreign social security institutions.
- The employee must express their desire to maintain the exemption from mandatory deductions in the corresponding employment contract.

Prevention of occupational hazards

The main obligation in terms of risk prevention rests with the employing entity, which must take all necessary measures to effectively protect the life and health of the workers, maintaining adequate hygiene and safety conditions within its premises.

A joint Hygiene and Safety Committee must be established by the employer and workers in every company, branch or agency that employs more than 25 people. Companies with more than 100 workers must have a risk prevention department.

The regulations on the prevention of occupational hazards are found in the Labor Code (Law 16744 of 1968, which states regulations on occupational accidents and diseases) and in a set of decrees issued by the Ministry of Health and the Ministry of Labor. In this regard, Supreme Decree No. 594 of 1999 issued by the Ministry of Health contains the provisions on basic sanitary and environmental conditions in the workplace and Supreme Decree No. 40 of 1969, deals with the prevention of professional risks. This latter decree establishes that the health authority is in charge of supervising the prevention activities that the employers' mutual societies and other administrators of occupational accident insurance are obliged to carry out. There are other regulations that address the management of health and safety at work in certain works and services, and on the constitution and operation of the joint Hygiene and Safety Committee.



E-business legal framework

Civil and commercial regulations

There is no specific legal framework that regulates e-commerce in Chile. Therefore, such operations must be governed by the general regulations applicable to commercial operations, such as the Commercial Code and Law 19496 of 1997 on the protection of consumer rights. This last rule establishes rights, such as:

- The free choice of the good or service.
- The right to accurate and timely information on the goods and services offered, their price, and other relevant information.
- The right to compensation in case of breach of any of the obligations contracted by the supplier.
- The right to terminate unilaterally and within ten calendar days from the receipt of the product or from the contracting of the service and before provision of the same, in contracts concluded by electronic means and those in which an offer made through catalogs, notices or any other form of remote communication has been accepted, unless the provider has expressly indicated otherwise. The term is extended to 90 calendar days in the event that the supplier has not complied with the obligation to send written confirmation of the contract.
- The right to request to stop sending promotional or advertising communications.

In addition, there are other laws that must be taken into account, such as:

- Law 20169 of 2007 on unfair competition and its sanctions, which aims to protect competitors, consumers and, in general, any person affected in their legitimate interests by an act of unfair competition.
- Law 20453 of 2010 on internet and net neutrality, regarding the public telecommunications service concessionaires that provide services to internet access providers and also in their relationship with users.
- Law 19799 of 2002 that grants all content presented in electronic format the same validity as a paper document.

Protection of personal data

Law 19628 of 1999 contains the regulations on the right that people have to privacy and personal data; that is, people's right to information, modification, cancellation or blocking of their personal data, which cannot be limited by any act or convention, and the responsibility of those who administer or obtain said information.

The law provides rules on the use of personal data related to obligations of an economic, financial, banking or commercial nature, as well as on the processing of data by government offices. The person responsible for the records or databases where personal data is stored must take care of them with due diligence, with that person being responsible for damages.

Individuals, juridical persons or the government office responsible for the personal data bank must offer compensation for the patrimonial and moral damage caused by the improper treatment of data, without prejudice to proceeding to delete, modify or block the data according to what is required by the owner or, where appropriate, ordered by the court.

Domain names

The Department of Computer Science at the University of Chile by delegation of the IANA (Internet Assigned Numbers Authority) manages the registry of names of the '.cl' domain, called NIC Chile (Network Information Center Chile). Such delegation was recognized through a framework agreement signed between ICANN and NIC Chile, which states the responsibilities that both entities have in preserving the stability, security and interoperability of the internet.

Particularly, NIC Chile may authorize registrar agents, empowered to manage domain name registration operations on behalf of its clients, to perform certain functions including registration, modification, deletion and owner changes.

A request for registration of a domain name will be considered validly submitted when the payment of the respective fee is recorded, after which NIC Chile will complete the registration and enable the operation of the registered domain name. The fee is an annual renewable amount to maintain ownership of the registered domain but it can be paid in advance for a period of up to ten years.

Administratively, the '.cl' domain represents domain names registered in Chile and administered by NIC Chile. On the other hand, other domains such as '.com' or '.org' are of a generic nature (they do not involve a geographical location) and their registration is managed by various companies and entities in a coordinated manner throughout the world.

Appendix

Reference web sites

Data Protection Agency	Courts of Justice
Data Protection Agency	www.pjud.cl
Tax Authorities	www.sii.cl
Colegio de Contadores de Chile A.G. (Association of Accounting)	www.contach.cl
Asociación de Auditores Externos de Chile A.G. (Association of External Audit)	www.aechile.cl
Comisión para el Mercado Financiero (CMF) (Commission for the Financial Market)	www.cmfchile.cl
Unidad de Análisis Financiero (Financial Analysis Unit)	www.uaf.cl
Servicio de Aduanas (Customs Service)	www.aduana.cl
Banco Central de Chile (Central Bank of Chile)	www.bcentral.cl
Dirección del Trabajo (Superintendence of Labor)	www.dy.gob.cl

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right people
right size
right solutions

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