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HOW TO INVEST IN CHILE

Step-by-step Guide for Foreign Investment

2026

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How to Invest in Chile

STEP-BY-STEP GUIDE FOR FOREIGN INVESTMENT

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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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Protection for Foreign Investors

01

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01 Protection for Foreign Investors

1. International Law

Foreign investors in Chile enjoy the security and protection provided by various international, bilateral, and multilateral treaties, whose rules are mandatory and protect the rights of those who invest in the country.

As of January 1, 2024, Chile has 33 active trade agreements, which, depending on the scope of international trade they cover, are classified as:

a. Strategic Partnership Agreements:

These are bilateral agreements of intermediate scope between a free trade agreement and a partial scope agreement, as they not only open markets in terms of tariffs but may also address agreements on other related topics that are not directly commercial, such as cooperation on scientific, technological, social, and educational matters.

b. Free Trade Agreements:

These are bilateral agreements that aim to create a free trade zone ensuring the free movement of goods, services, and capital, through the harmonization of relevant policies and legal standards. These agreements must ensure comparable or common competitive frameworks in areas that are not directly commercial, but which can have a significant impact on competition (environment, health and phytosanitation, technical barriers to trade, intellectual property, dispute resolution, legal security, among others).

c. Economic Complementation Agreements (ECA):

This is the term used by Latin American countries in bilateral agreements they sign among themselves to mutually open their goods markets, which are entered into under the legal framework of the Latin American Integration Association (ALADI). ECAs aim to open larger markets than partial scope agreements.

d. Partial Scope Agreements:

This is the most basic type of bilateral agreement in tariff matters, which aims to partially free up trade for a limited list of products. It is typically considered as the first stage in a longer-term process of greater market opening.

At the following link, you will find a list of all the trade agreements signed by Chile that are currently in force (in Spanish):

https://www.subrei.gob.cl/acuerdos-comerciales/acuerdos-comerciales-vigentes

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 receive compensation if they are subject to direct or indirect expropriation measures.
- The right to the free transfer of capital and the income it generates.
- The right of appeal to an international tribunal in the event of a dispute with the State (Washington Convention of 1965).

See https://www.subrei.gob.cl/

2. National Law (Law No. 20.848 of 2015)

Law No. 20.848 of 2015 establishes the framework for foreign direct investment (FDI). This regime applies to foreign individuals and legal entities who are neither residents 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 business activities that are reserved solely for the State, or for Chilean individuals or legal entities. Consequently, private parties may participate in all business sectors and up to 100% of a company's capital can be foreign.

Notwithstanding the general principles of economic freedom, non-discrimination, and the right to the same treatment as Chilean national enjoyed by foreign investors in Chile, there are some exceptional situations that are described below:

a. Border Zones

Real estate located entirely or partially in the areas of Chilean territory currently declared as "border zones"[1] cannot be acquired in ownership or other property rights, or be held, by nationals of neighboring countries. Nor can it be acquired by legal entities whose main headquarters are located in a neighboring country, whose capital is 40% or more owned by nationals of said neighboring country, or whose effective control is in the hands of nationals of those countries, unless authorized by the President of Chile through a supreme decree based on reasons of national interest.

1. Decree with Force of Law No. 4 of 1967 of the Ministry of Foreign Affairs.

"State-owned land" located up to 10 kilometers (6.2 miles) from Chile's borders may only be acquired, leased, or owned under any other title by Chilean individuals or legal entities. The same rule applies to state-owned land located up to 5 kilometers (3.1 miles) from the coast, measured from the high tide line. In this latter case, foreigners residing in Chile may establish rights with a favorable report from the Undersecretary of the Navy, which forms part of the Ministry of National Defense.

State-owned beach lands located in a strip of 80 meters wide, measured from the high tide line along the coastline, cannot be transferred under any title.

Decree-Law No. 1939 of 1977, which establishes regulations on the acquisition, administration, and sale of State assets.

b. Aquaculture and Fisheries

Only individuals who are Chilean or foreign with permanent residency in Chile, and legal entities incorporated according to Chilean laws, can hold authorization to carry out aquaculture activities in Chile.

Only Chilean vessels can fish in Chile's inland waters, territorial sea, or Exclusive Economic Zone (EEZ), which extends 200 nautical 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 domicile and real, effective headquarters in Chile, with more than 50% of their share capital owned by Chilean individuals or legal entities, and their chairperson, manager, and the majority of their directors or administrators must be of Chilean nationality.

The Maritime Authority, applying the principle of international reciprocity, may exempt fishing companies incorporated in Chile with a majority of foreign capital from the requirements established by law, when the country of origin of the foreign capital has registration (enrollment) requirements for foreign vessels and provisions for the development of fishing activities in accordance with that principle.

Law No. 18.892 of 1989, General Fishing and Aquaculture Law, and Decree-Law No. 2222 of 1978 that replaces the Navigation Law

c. Hydrocarbons, Lithium, and Deposits Under Chilean Waters

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

See Law No. 18.097 of 1982, Organic Constitutional Law on Mining Concessions.

d. Natural Nuclear Materials

Natural nuclear materials may not be the object of any legal document, unless implemented or entered into by the Chilean Nuclear Energy Commission (CCHEN), or with its prior authorization.

See Law No. 16.319 of 1965, which creates the Chilean Nuclear Energy Commission.

e. Nuclear Energy

The production of nuclear energy for peaceful purposes may only be carried out by the Chilean Nuclear Energy Commission (CCHEN), or with its prior authorization. The commission may carry out such activities either independently or in collaboration with third parties.

See Law No. 16.319 of 1965, which creates the Chilean Nuclear Energy Commission.

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, then the Maritime Authority can authorize the use of foreign merchant vessels.

Decree-Law No. 3059 of 1979, Law for the Promotion of the Merchant Navy

g. Telecommunications, Radio, and Television Broadcasting

Only legal entities incorporated and domiciled in Chile may hold a radio 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. Foreigners may form part of their boards of directors, provided that they do not constitute the majority, both in terms of numbers and decision-making powers.

Decree 126 of 1998, of the Ministry of Transport and Telecommunications; Undersecretary of Telecommunications, which approves radio broadcasting regulations

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.

Law No. 18.838 of 1989, which creates the National Television Council.

4. Rights Granted by Law No. 20.848

- The right to access to 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 Central Bank of Chile. The exchange rate to settle or obtain foreign currency in the formal foreign exchange market will be freely agreed by the parties involved.
- The right to remit the capital it invested and the profits generated by its investments, after its tax obligations have been met, in accordance with Chilean legislation and the regulations issued by the Central Bank of Chile.
- The right to request a Foreign Investor Certificate, granted by InvestChile, which provides access to legal benefits. Obtaining the Foreign Investor Certificate is voluntary. However, it should be noted that the Foreign Investor Certificate is a public document granted by the State (InvestChile) that recognizes the applicant as a foreign investor.
- Foreign investors who meet the following requirements are entitled to request this certificate:
    - 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 No. 20.848.
    - Foreign capital or assets owned or controlled by a foreign investor that are transferred to Chile must be equal to or greater than US$5 million or its equivalent in other freely convertible currencies. The transfer can use any of the investment channels indicated by law, or be by acquiring or participating in the equity of a Chilean company receiving the

investment, giving the investor control of at least 10% of the voting rights in that company, or an equivalent percentage interest in the share capital of the Chilean company receiving the investment, incorporated in accordance with Chilean law.

- Verify the investment in Chile for the amounts stated starting from 2016.
- Submit a detailed description of the investment project, including its value, purpose, and nature, which complies with the form and conditions determined by InvestChile and is supported by documentation that verifies their residence or domicile abroad, among other information.

The deadline for granting a Foreign Investor Certificate is 15 business days after the application is received, or after the date on which all required supporting documentation is submitted to InvestChile.

The Foreign Investor Certificate application form is available at www.investchile.gob.cl or at InvestChile's offices.

a. Capital Contribution Modalities Contemplated by Law No. 20.848 of 2015.

Capital may be invested in any of the following ways:

- Freely convertible foreign currency.
- Imported physical goods, in all their forms or states.[2]
- Reinvested profits.
- Capitalized loans.
- Technology, in its various forms, which can be capitalized.
- Loans associated with the foreign investment from related companies.

5. Foreign Exchange Market

Foreign investments equal to or greater than US$10,000 or its equivalent in other freely convertible foreign currencies must be transferred 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 Central Bank of Chile, and the investor may freely choose their preferred authorized entity to perform the transaction.

2. Foreign investors may request exemption from value added tax (VAT) when importing capital goods, in accordance with the provisions of section 10, letter B of article 12 of Decree-Law No. 825 of 1974, issued by the Ministry of Finance.

6. Central Bank of Chile

The Central Bank of Chile is governed by Law No. 18.840 of 1989 and its subsequent amendments. Its purpose is to ensure the stability of the Chilean peso and the normal operation of internal and external payments, and to promote the stability and efficiency of the financial system, thus creating a predictable environment for decision making, which contributes to the stability of economic cycles and lays the foundation for sustained growth in the country.

Central Bank of Chile regulations are based on the general principle of freedom for foreign exchange matters, which implies that any person may freely carry out foreign exchange transactions. Their characteristics and procedures are described in the Compendium of Foreign Exchange Regulations issued by the Central Bank of Chile.

7. Chapter XIV of the Compendium of Foreign Exchange Regulations issued by the Central Bank of Chile

This chapter includes the general foreign exchange system for the entry of foreign capital in Chile, and 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 compendium must be conducted via the formal foreign exchange market, which is comprised of banks and foreign exchange businesses authorized by the Central Bank of Chile. However, it should be kept in mind that 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 Central Bank of Chile.

Central Bank of Chile: http://bit.ly/2kt2eGP

8. Financial Market Commission

The regulations governing the Financial Market Commission (CMF) are established in Law No. 21.000 of 2017. This institution is responsible for supervising and overseeing the activities of banks, branches of foreign banks, branches of local banks abroad, representatives of foreign banks, Chilean state-owned bank Banco del Estado de Chile, securities market and insurance companies, financial institutions, and other entities established by law.

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

9. Foreign Investment Promotion Agency

Regulatory framework

The Foreign Investment Promotion Agency InvestChile was created by Law No. 20.848 of 2015. Its purpose is to promote and attract foreign investment to Chile by providing guidance and general information to potential foreign investors regarding the Chilean market, its legislation, and other relevant aspects that facilitate the entry, retention, and expansion of their investment in Chile.

Services Provided by InvestChile

InvestChile offers investors multiple services throughout the various stages of the foreign investment cycle.

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, etc.; 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 visits to explore the country's infrastructure; public and private contacts; and general information on different areas of the Chilean legal framework, such as taxation, labor, specific laws, etc.

For the launch or *landing* stage, the agency provides services to facilitate smooth company setup (support in obtaining a tax identification number, visa processing, investment incentives, special permits, etc.) and assists with queries to public agencies. In the *post-establishment or aftercare* stage for companies already operating in the country, InvestChile provides active support, promoting and encouraging reinvestment and managing inquiries with relevant public agencies.

Foreign investors in Chile enjoy the security and protection provided by various international, bilateral, and multilateral treaties, whose rules are mandatory and protect the rights of those who invest in the country.

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Investment Incentives

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02 Investment Incentives

1. For these purposes, capital goods are understood to refer to machinery, vehicles, equipment, and tools that are directly or indirectly used for the development, exploration, or operation of these projects in Chile, whose production capacity does not disappear following their first use and which have a useful life equal to or greater than three years.

The State of Chile supports production, entrepreneurship, innovation, and competition by all companies, without discriminating by nationality, using special regulations and benefits that are available to companies legally incorporated in Chile.

1. VAT Exemption on Imported Capital Goods

Article 12, section B, number 10, of Decree-Law No. 825 of 1974, issued by the Ministry of Finance, exempts **the import of capital goods**[1] from VAT, provided that the following requirements are met:

a) The import must be carried out by an investor who is established, residing, or domiciled in Chile, or by a foreign investor and recipient companies of foreign investment, in accordance with article 3 of Law No. 20.848.

b) The investment must involve an amount equal to or greater than US$5 million.

c) The projects must be developed in Chile, either by the applicant or by a third party.

d) The projects must involve mining, industrial, forestry, energy, infrastructure, telecommunications, research, technological development, medical, scientific, or other similar initiatives.

e) The investment project must generate revenue at least two months after the entry of the first capital goods into the country or their acquisition in Chile, from the issuance of the respective Environmental Qualification Resolution, or from the granting of the land use concession.

Procedure:

The procedure for obtaining the exemption must be carried out according to the following requirements:

a) The application must be submitted prior to the import of the goods, using the specified form provided.

b) The applicant must visit the website http://hacienda.cerofilas.gob.cl and enter their unique code (Clave Única) provided by the Civil Registry and Identification Service, complete the application form, and attach the required documents.

c) The Ministry of Finance must process the application within a maximum of 60 calendar days, and is authorized to consult with other government agencies on the matter.

d) If the Ministry of Finance deems that a document is missing, the applicant will be required to provide it within the following 10 business days, during which the deadline will be suspended.

e) When the import is for projects carried out in stages, or to complement or expand projects for which the exemption has already been granted, the applicant only needs to attach a copy of the original exemption resolution to the application, together with documentation proving that it is a different stage or an expansion of the original project.

2. Tax and Customs Benefits for Exports

Value-added tax (VAT):

Article 12, section E, number 16, of Decree-Law 825 of 1974, on sales and services tax, establishes that income from services **provided to individuals** without domicile or residence in Chile, **rendered partially or entirely in Chile for use abroad,** will be exempt from VAT. This exemption applies provided that the National Customs Service classifies these services as exports.

Furthermore, article 36 of the law grants exporters the right to **recover VAT** that was charged when **purchasing goods or using services that are intended for their export activities.** Exporters also have the right to recover VAT paid on **imported goods** for the same purpose. Applications, declarations, and other documentation required to claim these benefits must be submitted to the Internal Revenue Service.

Exporters conducting transactions that are subject to VAT may **deduct this tax** in the manner and under the conditions required for applying the tax credit. If they do not exercise this right, they must **obtain a rebate**, either in advance or after the export.

The benefits of article 36 are also available to those who **provide services** to individuals without domicile or residence in Chile, or for services that are rendered and used exclusively abroad, provided that they are classified as exports by the National Customs Service and are subject to VAT or would have been subject to VAT had they been rendered or used in Chile. The above applies only if the country where the services are rendered or used imposes a domestic tax of the same or similar nature, which must be verified in the manner and under the conditions specified by the Internal Revenue Service.

Customs duties:

Article 1 of Law No. 18.708 establishes that exporters may obtain a rebate of customs duties and other tariffs paid on raw materials, semi-finished goods, parts, or pieces imported by the exporter or third parties, provided that these inputs were **incorporated or consumed in the production of the exported good.**

This provision also states that **services provided abroad** will be considered exports, requiring exporters to comply with the requirements and formalities established for exports. In this case, the rebate cannot exceed the percentage corresponding to the general customs duty rate on the value of the exported service, which is determined by the National Customs Service.

3. Research and Development (R&D) tax benefit

Law No. 20,241 (R&D Law) incentivizes investment in research and development with a first-category tax credit equal to 35% of payments made under duly certified research and development projects and contracts.

Additionally, the taxpayer may deduct 65% of expenses incurred for these projects and contracts from its net income, thereby covering the remaining 65%, regardless of the company's line of business. The tax credit amount to which the taxpayer is entitled may not exceed 15,000 UTM (approximately US$1 million) annually.

Investors may apply for this incentive via this website: https://www.corfo.cl/sites/cpp/incentivo_tributario

The law defines a research and development project as a set of activities that a taxpayer conducts using their own or third-party capacities, whose purpose is research and/or development relevant to the country's development. According to regulations, such activities must take place primarily within Chilean territory.

Regarding contracts, CORFO is legally responsible for processing registration applications from research centers.

An updated list of CORFO-registered centers is available at: https://www.corfo.cl/sites/cpp/centrosid. This site also certifies research and development contracts between applicants and the research centers.

4. Benefits Applicable to Remote Areas of Chile

The purpose of these incentives 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 far 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 Extreme Zones Law includes the following benefits:

a. Tax Credits

Law No. 19.606 ("Austral Law") and Law No. 19.420 ("Arica Law"), establish a **tax** credit for taxpayers that declare first category (corporate income) tax on income determined according to comprehensive accounting practices through **investments in fixed assets** in the Arica y Parinacota Region, the Aysén and Magallanes regions, and Palena Province, to produce goods and provide services in these areas.

This benefit consists of a deduction established by law, which implies a **lower payment for the taxpayer in their annual income tax return.**

Investments eligible for this benefit must be made in an investment project, which may involve the acquisition or construction of physical fixed assets for businesses, such as buildings, machinery, and equipment directly related to the production of goods or the provision of services for the taxpayer's main activity, and the construction of buildings for production activities, among others.

The total investment amount for assets included in the product must be **greater than 500 monthly tax units (UTM, approximately US$36,000).**

The percentage tax credit **varies between 10% and 40%**, depending on the specific location of the investment, the investment amount, and the business involved. Thus, with certain exceptions, in the Arica y Parinacota Region, the credit amount is 30% of the investment. Meanwhile, in the Aysén and Magallanes regions and Palena Province, the credit starts at 32% and gradually decreases to 10% as the investment amounts increase.

To claim the credit, the applicant must report the total investment amount eligible for the credit to the Internal Revenue Service during the first annual income tax return (Form 22).

2. This benefit is extended until December 31, 2035 for current or future employers in the specified locations.

b. Incentive for Hiring Labor

Law No. 19.853 establishes a special incentive for hiring labor in the Arica y Parinacota Region, the Tarapacá Region, the Aysén Region, the Magallanes Region, and Chiloé and Palena provinces in the Los Lagos Region.[2]

This benefit consists of a payment to the employer equal to 17% of the taxable wages, up to CLP 182,000 (adjusted annually), for employees with domicile and permanent work in those regions or provinces, including those with part-time schedules within the respective region or province.

To qualify for this benefit, the following requirements must be met:

a. Employers must have paid the social security contributions of the respective workers.

b. In some regions, the bonus is granted only if workers' salaries are at least 20% higher than the monthly minimum wage.

c. Employers must submit a sworn statement confirming that, in the last six months, they have not been convicted of anti-union practices or violations of workers' fundamental rights.

Employers wishing to apply for this benefit must visit the regional office of the General Treasury of the Republic or complete the form available at www.tesoreria.cl.

c. Special Subsidy for Small and Medium-Sized Investors

Decree with Force of Law No. 3, of 2001, issued by the Ministry of Finance, **created a special fund for the promotion and development** of the Arica y Parinacota, Tarapacá, Aysén, and Magallanes regions, and Chiloé and Palena provinces in the Los Lagos Region.

This fund grants a **subsidy to small and medium-sized investors, goods producers, or service providers** for investments or reinvestments in machinery and equipment, new constructions (such as warehouses, hangars, storage areas, or similar buildings, and motorized land vehicles used to improve its technical capabilities.

For these purposes, small and medium-sized investors are considered to be those whose annual net sales do not exceed 40,000 Chilean inflation-linked units of account (UF, approximately US$1,600,000). Each investor may make one or more investments, provided that the amount of each investment does not exceed 50.000 Chilean inflation-linked units of account (UF, approximately US$2,040,000).

Between the years 2012 and 2035, the subsidy corresponds to 20% of the amount of each of the respective investments or reinvestments, calculated on the actual invoice amount, excluding VAT, or on the CIF value on the import declaration, the invoice registration request, the transfer request, or the equivalent document, as applicable.

To access the benefit, interested parties must participate in a public tender each year, for which registrations are open from November 15 to December 31 (article 9).

The subsidies granted cannot be used together with any other type of subsidy granted by the State on the same assets, and the applicant must choose between this and other subsidies (article 7).

d. Free Trade Zones

Free trade zones are defined as physical places where goods traded are exempt from customs duties and tariffs. Accordingly, imports are exempt from tariffs, and sales to other free trade zones and abroad are exempt from VAT and first category (corporate income) tax on profits generated through activities conducted in free trade zones. In Chile, these zones are located in the Arica y Parinacota, Tarapacá, and Magallanes regions.

Additionally, benefits similar to free trade zone benefits are also available in the Tocopilla, Isla Navarino, and Tierra del Fuego provinces.

Further information is available at:

www.zofri.cl

www.zonaustral.cl

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

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:

Institution	Mission	Contact
CORFO Chilean Economic Development Agency	To foster competitiveness and economic diversification in Chile by promoting investment, innovation, and entrepreneurship, strengthening Chile's human capital and technological capabilities to improve productivity and achieve world leadership positions in terms of competitiveness.	Website: www.corfo.cl Address: Moneda 921, Santiago, Chile. Telephone: 56-2-631 8200
PROCHILE Export Promotion Bureau	To contribute to Chile's economic development by promoting Chilean goods and services around the world and the sustainable internationalization of Chilean companies.	Website: www.prochile.cl Address: Teatinos 180, Santiago, Chile. Telephone: 56-2-827 5100
SERCOTEC Technical Cooperation Service	To promote and support the development of microenterprises, small businesses, and entrepreneurship in Chile to strengthen business ecosystems, facilitating their sustainable and inclusive development and greater wellbeing for people.	Website: www.sercotec.cl Address: Huérfanos 1117, Floor 9, Santiago, Chile Telephone: 56-2-675 4300
ANID National Research and Development Agency	To promote, foster, and develop research in Chile in all areas of knowledge, technological development, and innovation based on scientific and technological knowledge, in accordance with the policies defined by the Ministry of Science, Technology, Knowledge, and Innovation.	Website: www.anid.cl Address: Moneda 1375, Santiago, Chile Telephone: 56-2-2365 4400
SENCE National Training and Employment Service	To improve employability and career paths for individuals through the implementation of public policies, programs, and tools for workforce development, as well as incentives for hiring.	Website: www.sence.cl Address: Huérfanos 1273, Santiago, Chile. Telephone: 56-2-800 80 10 30
FIA Foundation for Agricultural Innovation	To promote and encourage innovation in the Chilean forestry, agricultural, and/or agrifood chain sector, through the promotion, coordination, capacity building, and technological dissemination of initiatives that contribute to the sustainable development and competitiveness of Chile and its regions.	Website: www.fia.cl Address: Loreley 1582, La Reina, Santiago, Chile. Telephone: 56-2-431 3000

The State of Chile supports production, entrepreneurship, innovation, and competition by all companies, without discriminating by nationality, using special regulations and benefits that are available to companies legally incorporated in Chile.

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Setting up a Company in Chile

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03 Setting up a Company in Chile

1. Incorporating a Company in Chile

A foreign company can operate in Chile by incorporating a legal entity in the country. Chilean legislation provides for several possible structures to incorporate companies, and the most appropriate choice will depend on the business strategy, the capital required, and other factors.

In Chile, there are two systems for incorporating certain types of business entities: the general registry system and the simplified system.

The most commonly used corporate structures in Chile are as follows:

- Individual limited liability company (EIRL)
- Limited liability company
- Corporation (S.A.)
- Joint-stock company (SpA)

Ways of Incorporating Companies in Chile

a. General Registry System

Under the general registry system, companies must be incorporated through a public deed. In some cases, however, this can be done by private deed, although 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 or commercial activity, its initial partners and their respective capital contributions, how they will share in the profits, how they will respond to losses, and other matters.

An extract of the deed must be published in the Official Journal and registered in the Business Registry of the corresponding Real Estate Registrar (Conservador de Bienes Raíces).

b. Simplified System

In Chile, there is also the simplified system ("Tu empresa en un día"), governed by Law No. 20.659. This system consists of a free, public electronic registry through which various types of companies—including limited liability companies, individual limited liability companies (EIRL), joint-stock companies (SpA), and corporations, among others—can be incorporated, modified, merged, transformed, divided, or dissolved.

A company is created using forms available on the Business and Companies Registry website, which contain fields for the essential information required by law, depending on the type of legal entity.

These forms are signed by the partners using an advanced electronic signature. If an advanced electronic signature is not available, the forms must be signed before a notary, who will affix their advanced electronic signature on the corresponding form.

This system also includes a Shareholder Registry and a Power of Attorney Registry.

The simplified system allows for proof of a company's existence and status through certificates on updated statutes, company validity, powers of attorney, and other annotations.

Main Types of Companies

a. Individual Limited Liability Company (EIRL)

This type of company is governed by Law No. 19.857.

It is incorporated by a single individual who creates a legal entity with its own assets, separate from those of the owner. This structure limits the owner's liability to the contributions made or committed to the company's capital, while the company itself is liable with all of its assets.

An EIRL can engage in all kinds of civil and commercial business, except those restricted to corporations by law.

It is incorporated through a public deed, an extract of which is registered in the Commercial Registry and published in the Official Journal. Alternatively, it can be created through the simplified system described above.

Management of the EIRL corresponds to the owner. However, they may grant general or special powers of attorney to a manager or representative.

b. Limited Liability Company

This type of company is governed by Law No. 3.918, supplemented by the Code of Commerce and the Civil Code. It is established through a public deed, an extract of which is registered in the Commercial Registry and published in the Official Journal. Alternatively, it can be created through the simplified system described above.

It must have a minimum of 2 and a maximum of 50 partners, who may by Chilean or foreign individuals or legal entities, and who freely agree on the purpose, management, and control of the company.

1. Notarization is the act of adding a document to a notary's register at the request of the person who submits it.

The partners are financially liable up to the amount of their respective contributions, unless a greater liability was agreed upon incorporation.

The legal name of the company may contain the name of one or more partners, or refer to the company's purpose, and always includes the word "Limitada", without which the partners will be jointly and severally liable for the company's obligations.

c. Corporation

It must have a minimum of 2 and a maximum of 50 partners, who may by Chilean or foreign individuals or legal entities, and who freely agree on the purpose, management, and control of the company.

Corporations are governed by Law No. 18.046. This type of company is formed by pooling resources in a common fund provided by shareholders, who are liable only for their respective contributions. It is distinguished from other types of companies in that shareholders' rights are represented by shares documented in a certificate.

It is incorporated through a public deed, an extract of which is registered in the Commercial Registry and published in the Official Journal. Alternatively, it can be created through the simplified system described above.

Its share capital must be fully subscribed and paid up within three years of incorporation. Otherwise, its share capital will be automatically reduced to the amount actually subscribed and paid up.

This type of company is managed by a board of directors, whose members are elected at a shareholders' meeting and are essentially revocable.

Additionally, corporations can be either open or closed:

- **Open:** These companies, either by legal mandate or voluntarily, are registered in the Financial Market Commission (CMF) Securities Registry, to whose oversight they are subject, and publicly trade their shares on the Santiago Stock Exchange.
- **Closed:** These companies are not registered in the CMF Securities Registry and their shares are not traded on the Santiago Stock Exchange.

d. Joint-Stock Company (SpA)

This type of company is regulated under articles 424 and subsequent of the Code of Commerce and, additionally, by the regulations that govern closed corporations.

It may be incorporated by one or more individuals or legal entities, whose participation in the capital is represented by shares.

It can be incorporated through a public deed or a private deed—in which case the signatures must be authorized by a notary and the document must be notarized[1]—and an extract must be published in the Official Journal and registered in the Commercial Registry of the Real Estate Registrar (Conservador de Bienes Raíces) corresponding to the registered office. It can also be incorporated through the simplified system mentioned above.

The administration of this type of company is determined freely by the partner(s), so it can adopt various forms.

2. Foreign Company Agency in Chile

To operate in Chile, a foreign legal entity also has the option of establishing an agency in the country, which is regulated in articles 447 and subsequent of the Code of Commerce.

To do this, the company must appoint an agent or legal representative in the country, who will be required to notarize the following documents at a notary office in the designated Chilean domicile, issued by the country where the company was incorporated, translated into Spanish if they are not in that language, and duly apostilled: 1) documents substantiating Its incorporation in accordance with the laws of the country of origin, and a certificate of the entity's validity; 2) authenticated copy of the articles of incorporation; and 3) a general power of attorney granted by the entity to the agent that will represent it in the country.

Additionally, through a notarized public deed, the agent or representative must declare: the name under which the entity will operate in Chile, its purpose, the capital it will have in the country, the address of the main agency, and other details as specified by law.

An extract of the notarization and the aforementioned public deed must be registered in the Commercial Registry corresponding to the address of the main agency and published in the Official Journal.

3. Opening a Checking Account

Notwithstanding the fact that commercial banks have the freedom to set the relevant requirements for opening checking accounts, there are certain requirements that are typically requested depending on whether the applicant is an individual or a legal entity.

a. 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 in the bank.
- Information related to the business and its solvency that the bank deems necessary.
- Registration of an address in Chile.
- Signing of a contract containing the terms and conditions for a checking account.

b. 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 identification number.
- The same requirements for individuals regarding registering their identity, photograph, fingerprint, and signature apply to 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.

Chilean legislation provides for several possible structures to incorporate companies, and the most appropriate choice will depend on the business strategy, the capital required, and other factors.

Download chapter

The Chilean Tax System

04

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LiveRamp in US-Dollar
75
50
40
30
20
15
2016
2017
2018
2019
2020
2021

04 The Chilean Tax System

1. Institutional Structure

The Chilean public institution responsible for taxation is the Internal Revenue Service (Servicio de Impuestos Internos or SII in Spanish).

(www.sii.cl)

For information purposes, the following is a brief explanation of the Chilean tax system.

2. General Principles

Individuals and legal entities domiciled or residents in Chile are taxed on their *worldwide income*, which is their income from both within and outside Chile.

However, only *Chilean-source income* is subject to tax in Chile for foreigners who establish domicile or residence in Chile, during their first three years. This term may be extended by the Regional Director of the Internal Revenue Service in specific cases.

An individual will be taxed for local source income during the first 3 years of residence in Chile if their nationality is determined to be foreign.

Individuals and legal entities *without domicile or residence* in Chile must pay tax on their Chilean income.

An individual is considered to be domiciled in Chile if, while in Chile, it can be presumed that they intend to remain in the country permanently. There are legal presumptions to determine the domicile of individuals, for example, domicile in Chile is not lost if the individual directly or indirectly keeps the headquarters of their business within the country.

An individual is deemed resident in Chile if they remain in Chile for periods—uninterrupted or not—that exceed 183 days in total within any twelve-month period.

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

Chilean-source income is derived, among others, 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 of industrial or intellectual property in Chile.
- The indirect sale of certain securities outside Chile under specific circumstances, where the value corresponds to assets located in Chile, within legal parameters.
- Corporate shares and rights of companies incorporated in Chile.

  See: http://www.sii.cl/contribuyentes/contribuyentes_individuales/chilenos_extranjero.pdf

3. Income Tax

Income tax is established by Decree Law No. 824 of 1974. It is a direct tax applied to capital increase and is generally paid annually based on a tax return that should be filed in April of the following year.

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

- Income which predominantly results from capital (commonly called business income) is subject to first category (corporate income) tax.
- Income which predominantly results from effort (from the exercise of liberal professions and employment) is subject to second category (employee income) tax.
- Furthermore, the aforementioned income and any income generally received by an individual domiciled or resident in Chile is subject to overall complementary tax.
- Income from a Chilean source obtained by a non-resident or non-domiciled individual is subject to additional tax.

Both the global complementary tax and the additional tax are qualified as final taxes by law.

In Chile, first category tax paid may be credited against final taxes. In other words, the Chilean tax system recognizes taxes on business income when applying the tax to be retained on income distributed to final taxpayers, in order to avoid domestic double taxation. The percentage of this credit will depend on several factors, such as the tax system chosen by the distributor, as detailed below.

a. First Category (Corporate Income) Tax

This tax is levied on income which predominantly involves capital over labor, specifically, income from land use, movable capital, commercial, industrial, and mining enterprises, among others.

The form of determination and the rate will depend on the taxpayer's tax regime.

Regardless of the regime, this tax is declared annually in April of the year following the respective tax year ended on December 31, comprising all the profits for the corresponding calendar year.

General Regime

This regime is called semi-integrated because, as a general rule, it involves partial credit against final taxes.

Profit or loss is determined on a full accrual basis, considering all revenues received or accrued, less costs and expenses accepted by law, paid, or due.

The applicable rate is 27%. Final taxes are applicable to remittances to owners. The rate applicable to non-domiciled and non-resident individuals is 35%.

If the profit remittance is made to a resident of a country with a double taxation treaty in force, 100% of the first category tax paid may be credited. Otherwise, credit is limited to 65%.

For residents of countries with a double taxation treaty in force, the maximum charge is 35%, while in other cases it can be up to 44.45%.

Pro-SME Regimes

For these purposes, SMEs are considered to be those companies that upon starting their activities have an effective capital that does not exceed 85,000 UF.*

In addition, their average gross income in the last three years, including related parties in Chile and abroad, must not exceed 75,000 UF.* However, the income may exceed the above limit for one time only, but must not exceed 85,000 UF.*

Likewise, to be included in this regime, income from real estate leasing and income from movable capital must not exceed 35% of their income, which considers joint venture agreements, dividends, and withdrawals, among others.

SME regimes have common elements, such as administrative simplifications and the benefit of instant depreciation of fixed assets. Company owners can be either local or foreign.

Once these requirements have been met, the following two regimes are available.

General Pro-SME Regime

In this regime, taxable income is determined based on full accounting, with the option of simplified accounting. It takes into account all income received, less costs and expenses paid and accepted by law.

The applicable rate of first category tax is 25%. Final taxes are applicable to remittances to owners. The rate applicable to non-domiciled and non-resident individuals is 35%.

With respect to income from companies subject to the SME regime, first category tax paid can be credited 100% against final taxes.

Transparent Pro-SME Regime

The owners of companies under this regime can be any type of foreign company. However, for owners who reside or are domiciled in Chile, the regime only admits individuals as owners of these companies.

Taxable income is determined on the basis of the purchase and sales registers, with the option of full accounting. As in the previous case, they must consider all income received, less costs and expenses paid and accepted by law.

The regime includes a number of administrative simplifications to reduce the cost of tax compliance, including a proposed annual tax return prepared by the tax administration.

Companies under this regime are exempt from first category tax, but their income is charged at the end of the year to the owners in the proportions established in the corporate agreement. In other words, income is only subject to the final taxes applicable to the owners. The rate for non-domiciled and non-resident individuals is also 35%.

Presumptive Income

Taxpayers engaged in agricultural, transportation, and mining activities are eligible for this regime.

To be in this regime, the total income of the taxpayer and related parties, considering all types of income, must not exceed 9,000 UF* for the agricultural regime, 5,000 UF* for transportation and 17,000 UF* for mining.

The effective capital at the start of business cannot exceed 18,000 UF* for agriculture, 10,000 UF* for transportation and 34,000 UF* for mining.

The calculation of presumptions is detailed in the law for each type of income.

Income is deemed to be withdrawn at the end of the year in the proportion established in the bylaws and is subject to final taxes.

Taxpayers not Subject to Art. 14

This regime applies to taxpayers who, despite carrying out activities subject to first category tax, cannot distribute the positive result of the year, such as foundations and corporations incorporated in Chile.

Second Category (Employee Income) Tax

Second category tax is a progressive tax applied to income from liberal professions, such as fees for services, and income from employment, such as salaries, pensions (except foreign pensions), and complementary income.

The scale of rates is progressive, starting with an exempt range and ending with a taxable range with a rate of 40%.

This considers all payments made by the employer in exchange for work, whether in kind or in cash, after deducting social security and health care payments. This tax must be retained and remitted monthly to the internal revenue service by the respective employer or income payer.

See https://www.sii.cl/valores_y_fechas/impuesto_2da_categoria/impuesto2024.htm

In the case of fees, when the payer is a first category taxpayer, the payer must provisionally withhold the amounts corresponding to social security against second category tax, based on the following table:

2024	13.75%
2025	14.5%
2026	15.25%
2027	16%
2028 and thereafter	17%

View https://www.sii.cl/destacados/boletas_honorarios/aumento_gradual.html

Final Taxes

The Income Tax Law classifies the global complementary tax and additional tax as final taxes, since the payment of these taxes concludes taxation in Chile. We review these taxes below.

Global Complementary Tax

Global 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. In other words, it covers all income received in Chile or abroad, where tax retentions serve as credit, based on the type of income. If the taxes payable are less than the remitted withholdings, then a balance results, which is refunded to the taxpayer.

Additional Tax

Additional tax is a final tax applied to Chilean-source income received by individuals, legal entities, or any entities that are not domiciled or resident in Chile.

This tax must be withheld and paid to the tax authorities by the payer of the income.

The general rate of the additional tax for distribution of profits is 35%. The first category tax previously paid against this tax will serve as a credit of 65% or 100%, depending on the tax system chosen by the income-generating company or if a double taxation treaty is in force with the country of residence of the remittance beneficiary.

See https://www.sii.cl/normativa_legislacion/convenios_internacionales.html

The additional tax may also operate as a single income tax in cases where a person who is not domiciled and resident in Chile receives Chilean-source income or charges Chilean taxpayers for services rendered, either inside or outside the country. The general rate in this case is also 35%, however, there are several reduced rates, as detailed in the following table.

Additional Tax Rates

Description	Rate
Dividends, Remittances, and Withdrawals Dividends distributed by corporations, simplified corporations, and limited partnerships formed in Chile; remittances made to owners of partnerships and withdrawals of profits from partnerships; remittances made to foreign parent companies and withdrawals of profits from permanent establishments in Chile.	**35%**
Capital Gains Income from the disposal of shares or corporate rights. Income derived from the sale of shares on the stock exchange. (further requirements apply).	**10%**
Royalties General Rate 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%**
Licenses for Computer Programs Income from the 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. Licenses that are limited to use are exempt from this tax, but are subject to VAT.	**15%**
Movies and Television Foreign income for producers or distributors from materials to be exhibited through movie and television broadcasts.	**20%**

Publication Rights Income from the use of publication rights or book copyrights.	**15%**
Interest General Rate	**35%**
Rate applied to interest paid to foreign banks or financial institutions that meet the requirements of the Income Tax Act. https://www.sii.cl/preguntas_frecuentes/renta/001_002_4223.htm	**4%**
Foreign Services General rate for remuneration for services rendered abroad.	**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.	**20%**
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.	**22%**
Reinsurance rate.	**2%**
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).	

b. Specific Mining Tax

As of 2023, this tax was no longer included in the Income Tax Law and is now included in Law 21.591. The new law applies from January 1, 2024.

Despite this change, it still affects the operating income of a mining business, which is any individual or legal entity that extracts concessionable minerals and sells them in any form.

The main change implemented by the new law is the incorporation of an ad valorem element of 1%, which affects copper sales over 50,000 metric tons.

It maintains the general rule that applies a progressive rate varying between 5% and 14% to mining operators whose annual sales exceed the equivalent value of 50,000 metric tons of fine copper. Those with annual sales that exceed the equivalent value of 12,000 metric tons of fine copper, but not the equivalent value of 50,000 metric tons, are subject to a progressive rate that varies between 0.4% and 4.4%. 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.

c. Value-Added Tax (VAT)

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:

- Habitual sales of real and personal property;
- Services provided or used in Chile; and
- Regular and occasional imports into Chile by any individual or legal entity.
- 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.

Likewise, companies receiving foreign investment, such as foreign investors, may apply for VAT exemption on the import of capital goods. 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.

Ver: http://hacienda.gob.cl/documentos/formulario-exencion-iva importacion.html

d. Other Taxes

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 0.5% and 0.25% of the company's equity for commercial or industrial businesses, subject to a maximum of 8,000 UTM.**

Foreign Trade Tax

Imports are subject to ad valorem customs duty, which varies by the type of merchandise and averages around 6%. However, due to the application of the network of free trade agreements that Chile has undersigned, the average effective rates are usually less than 1%. The ad valorem customs duty is based on the CIF value (Cost, Insurance and Freight).

Additionally, VAT at 19% applies to the import and is calculated based on the CIF value plus the ad valorem customs duty and any other special taxes. The National Customs Service (Servicio Nacional de Aduanas) is responsible for overseeing foreign trade taxes (www.aduana.cl).

Imported Used Merchandise Tax

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

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

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. It has several rates—e.g. 0.332% for demand operations—and the maximum rate for term operations is 0.8%.

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.

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. The rates provided by law range from 1% to 1.4%. However, they may periodically rise or fall depending on a variety of circumstances. Likewise, depending on the value of the total real estate owned by a taxpayer, surtaxes ranging from 0.075% to 0.425% may be applied.

Casino Tax

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

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

See: Internal Revenue Service (SII) www.sii.cl

4. Tax Returns and Payment

Employers, financial institutions, commercial companies and any other entities that retain taxes, or pay income, interest and other amounts that are reported to the Internal Revenue Service are required to file tax returns.

Monthly tax returns must be filed by:

- Companies subject to corporate income tax and individuals working independently must declare a provisional monthly tax payment, which is treated as an advance payment of annual taxes.
- Employers are required to retain 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 issued by the Internal Revenue Service is used for the monthly declaration and simultaneous payment of taxes. 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 additional 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 issued by the Internal Revenue Service.

Taxpayers who have registered a secret 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.

See: http://bit.ly/2nID3Fn

5. Treaties that Avoid Double Taxation

Treaties for the avoidance of double taxation or international double taxation treaties aim to distribute the tax authority between countries, providing relief from double taxation, either because the source country agrees not to apply a tax, or agrees on the maximum rate applicable to income, while the other country agrees to credit the taxes paid in the source country in keeping with the rules of the agreement.

The source country benefits from receiving the foreign investment and the investor's country of residence is relieved from double taxation of its companies.

This type of treaty also promotes collaboration between the tax authorities of the Contracting States, which can obtain information from their counterparts for tax audits.

The treaties have special rules that differ from domestic regulations, which determine the parties benefiting from the treaty, the types of taxes covered, the maximum rates applicable, among other matters, and provide information in advance regarding the tax costs to be borne by investors for income generated in the contracting States.

As of 2024, there are 37 double taxation avoidance treaties in force in Chile, which were signed with the following countries: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, France, India, Ireland, Italy, Japan, Korea, Malaysia, Mexico, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russia, South Africa, Spain, Sweden, Switzerland, Thailand, United Arab Emirates, United Kingdom, United States, and Uruguay.

See: www.subrel.gob.cl and www.sii.cl/normativa_legislacion/convenios_internacionales.html

6. Frequent Tax Procedures

a. Registration in the Single Taxpayer Registry (RUT)

Foreigners who do not have residence or domicile in Chile must register in the single taxpayer registry in some cases; for example, if they become owners of assets located in Chile that may be income generating.

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

If a foreigner wishes to settle in Chile because they are going to acquire domicile or residence in the country, it is highly advisable to coordinate the immigration procedures prior to registration in the RUT (single taxpayers registry).

A normal or simplified procedure can used to register a RUT:

– Normal Procedure

A foreign investor can be represented before the Internal Revenue Service either personally or through their representative with domicile or residence in Chile.

If representation is in person, then they must be accompanied by the legal representative. Their passport or identity card must be submitted, and "***Form 4415 for Registering a RUT and/or Legal Declaration to Start the Business***" (F-4415 de Inscripción al RUT y/o Declaración Jurada de Inicio de Actividades) must be completed.

If representation is by the legal representative, then the foreign investor must grant them power of attorney with sufficient authority to represent them before the Internal Revenue Service, especially the authority to complete, sign and legalize Form 4415, to receive notifications and to respond to any summons to represent the foreign investor before the tax authority. This power of attorney must be granted before a Chilean notary public, or before a foreign notary public, in which case it must be apostilled in keeping with The Hague Convention or legalized by the respective Chilean Consul and the Ministry of Foreign Affairs in Chile, and then notarized by a Chilean notary public. In addition, for this procedure, the tax administration normally requires a certificate of tax residence of the foreign taxpayer stating their tax identification number, a certificate of good standing for corporations, documents showing that the representatives of corporations have the power to grant a power of attorney to the representative in Chile, together with the bylaws of the foreign entity, all of which must also be apostilled or legalized.

See: http://www.sii.cl/formularios/imagen/4415.PDF.

– 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.

b. Notification of Starting a Business

This procedure is only necessary if the investment involves starting a business in Chile.

The taxpayer files a sworn statement that informs the Internal Revenue Service that they are starting a business in Chile, which may be subject to taxes.

Individuals not resident or domiciled in Chile can start a business 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 a business.

Applications to start a business can be filed on the website www.sii.cl, or by the taxpayer or their representative with sufficient authority by filing the corresponding form.

c. Document Stamping

Taxpayers that have started their business 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.

See: www.sii.cl

7. Frequent Permits

Permits may be required to operate the desired 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 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	These are numerous and depend on the commercial business and the local municipality. They include: – Particulate matter emissions certificate. – 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. – Permit to commercialize electrical, gas, and liquid fuel products. – Request for a final electrical concession.	*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 the desired 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 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.

See: www.chileatiende.gob.cl

9. Tax on Fixed Emissions

There is a tax on fixed emissions of particulate matter, nitrogen oxides, sulfur dioxide, and carbon dioxide, to the extent that the sources, individually or as a whole, emit 100 or more metric tons per year of particulate matter, or 25,000 or more metric tons per year of carbon dioxide.

This tax is annual and is calculated based on a series of factors related to the emissions of each source, the quality of the air in each place, among others, which allow the environmental and tax authorities to establish the tax applicable to each case.

The law contemplates the possibility of reaching on agreement on emission offset an reduction plans with the sectoral authorities.

10. Regional Contribution

This tax applies to investments in fixed assets made by taxpayers required to determine their income through full accounting, to the extent that they are subject to the environmental impact assessment system provided for in Article 10 of Law 19.300.

This tax amounts to 1% of the value exceeding ten million United States dollars.

Unlike other levies, this one is not periodic and is applied only once. Broadly speaking, this tax will accrue when the respective project produces operating income, without considering depreciation.

11. VAT Refund to Exporters

The Sales and Services Tax Law grants exporters the right to request a refund of the surcharged VAT tax credit when acquiring goods or using services destined for their export activity. There are three ways to apply for this benefit.

The first is provided for in Articles 80 and following in the Sales and Services Tax Law and requires, among other things, that the application be submitted to the tax authority in the month following the month in which the export took place.

The second is established in Article 6 of Decree No. 348 of 1975 and enables an early export refund. Among other requirements, this requires that submission of an investment project to the Ministry of Economy, Development and Reconstruction.

The third way to obtain this benefit is provided for in Article 126 No. 3, second paragraph of the Tax Code, which makes it possible, within the statute of limitations, to request that the tax authority provide the benefits that were not requested by the taxpayer within special deadlines.

*UF is an accounting unit that is readjusted daily.

**UTM is an accounting unit that is readjusted monthly.

The value of both accounting units can be found at https://www.sii.cl/valores_y_fechas/index_valores_y_fechas.html.

Foreign Trade

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05 Foreign Trade

1. Regulations

The most important regulation on this matter is the Customs Ordinance, which is described in Decree with Force of Law No. 30 of 2004, issued by the Ministry of Finance.

2. Imports

In general, any merchandise may be imported into Chile, except for goods that are expressly prohibited by the current legislation, for example the following:

- Used 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 hazardous to animals, agriculture, or human health.

To carry out imports, the importer is not required to register in advance with the National Customs Service, except for registration in the Registry of Importers and Exporters of Ozone-Depleting Substances, for control in accordance with the Montreal Protocol.

It should be noted that commercial imports must present certain mandatory documents:

- Original bill of lading, consignment note, or air waybill, proving the consignee's ownership of the goods.
- Original commercial invoice, certifying the goods being sold and their values.
- Importer's sworn statement of the goods' price, using the form provided by the customs agent.
- Mandate constituted by the mere endorsement of the original bill of lading.

The following documents are required only for certain import operations:

- Certificate of origin, if the import qualifies for a preferential tariff under a trade agreement.
- Packing list, when applicable, which is always required for goods transported in containers.
- Insurance certificate, if the insurance premium amount is not included in the commercial invoice.
- Expense note, when costs are not included in the commercial invoice.
- Permits, approvals, certifications, or authorizations granted by the relevant body, as applicable.

A list of certain products that, before import, are subject to approval, authorization, or control by a regulatory body is provided below for reference purposes.

Merchandise	Organization
Firearms, ammunition, explosives, and chemical, flammable, and asphyxiating substances.	General Directorate of National Mobilization (www.dgmn.cl)
Written or audiovisual material related to teaching martial arts, without any limitation, regardless of the person, establishment, or entity that teaches it.	General Directorate of National Mobilization (www.dgmn.cl)
Alcohol, alcoholic beverages, and vinegars.	Agriculture and Livestock Service (www.sag.gob.cl)
Plant products and goods that are dangerous to plants.	Agriculture and Livestock Service (www.sag.gob.cl)
Animals, products, by-products, and animal or plant remains.	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 plant 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 Fishing (www.subpesca.cl)
Fish products	Undersecretary of Fishing (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.	Ministry of Health (www.minsal.cl)
Wild animal and plant species protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).	Authority defined in accordance with article IX of the convention (www.cites.org)
Used clothing; used toys; used shoes; used vehicles (cars, buses, trucks, trailers, semi-trucks, refrigeration units, semi-trailers, tow carts, motor homes, caravans, boats, sailboats, and jet skis); and parts and components of used vehicles originating from the United States of America, in accordance with resolutions No. 971, dated 02/08/2018, issued by the Agriculture and Livestock Service (SAG), and No. 5.607, dated 07/26/2019, issued by the SAG.	Agriculture and Livestock Service (www.sag.gob.cl)
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 Ministry of Housing and Urban Planning (www.minvu.gob.cl)

Import taxes:

As a general rule, imports are subject to the payment of the ad valorem tax (6%), which is calculated based on their CIF value (cost of the goods + insurance premium + freight charges). Additionally, the value-added tax (VAT) of 19% applies, which is calculated on the CIF value plus the ad valorem tax.

Calculation example:

CIF value	US$1,000.00
Ad valorem tax at 6% on US$1,000	US$60.00
VAT at 19% on 1,060.00	US$201.40
TOTAL CUSTOMS DUTIES	**US$261.40**

If merchandise is imported from countries with which Chile has signed a trade agreement, it may be duty free, or a percentage reduction may be applicable.

In some cases, depending on the nature of the goods, specific taxes are required, such as for fuels, alcoholic beverages, and tobacco.

If the import of used goods is authorized, these goods are subject to an additional surcharge on the applicable tariff, in addition to the taxes corresponding to their nature.

It is important to note that with the enactment of Law No. 20.690, Chile unilaterally and gradually eliminated tariffs on all goods originating from the least developed countries (LDCs), excluding wheat, wheat flour, and sugar. Additionally, under Law No. 20.269, customs duties were eliminated for goods imported into the country that qualify as capital goods in accordance with the provisions of Law No. 18.634.

Further information is available at www.aduana.cl.

Services Exports

For a service to be considered an export, it must have been provided to individuals without domicile or residence in Chile and must be used exclusively abroad. Additionally, the service provider must conduct the relevant activity in Chile, maintaining domicile or residence in the country, or through a company subject to the provisions of article 41 D of the Income Tax Law.

Chile's National Customs Service is responsible for preparing a list of services classified as "exports". The National Customs Services has determined that the leasing of capital goods does not qualify as an export.

The benefits of a service qualifying as an export are:

- Exemption from value-added tax (VAT) on income earned from providing the service.
- Recovery of VAT paid on the acquisition of goods or hiring of services necessary to carry out the export.
- Rebate of customs duties and other taxes paid on raw materials, semi-finished goods, and parts or components imported when they are part of the production of the service to be exported.

  Further information is available at www.aduana.cl.

In some cases, depending on the nature of the goods, specific taxes are required, such as for fuels, alcoholic beverages, and tobacco.

Environmental Assessment System

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06 Environmental Assessment System

1. Environmental Institutional Framework

a. Environmental Assessment Service

www.sea.gob.cl

The Environmental Assessment Service (SEA) is a functionally decentralized and territorially deconcentrated public body with legal status and its own assets. It oversees the environmental management tool known as the Environmental Impact Assessment System (SEIA), and coordinates the state agencies involved in it, exercising exclusive and non-transferable technical authority in the assessment of environmental impacts. Additionally, the SEA is responsible for promoting and facilitating public participation in project assessments.

b. Superintendency of the Environment

www.sma.gob.cl

The Superintendency of the Environment (SMA) plays a regulatory and enforcement role over the environmental management tools in force in Chile (Law No. 19.300). These include: Environmental Qualification Resolutions (RCA), emissions standards, environmental quality standards, and prevention and/or environmental decontamination plans, among others.

Penalties for breach of an RCA range from written warnings to revocation of the RCA, including fines of up to 10,000 annual tax units (UTA, approximately US$8 million).

The environmental inspection procedure concludes with the publication of an environmental oversight report, which identifies all of the actions that constitute breaches of 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 organizations in their understanding of their environmental obligations, it has support tools such as compliance programs and reparation plans.

c. Environmental Courts

www.tribunalambiental.cl

Environmental courts are special, independent judicial bodies whose role is to resolve environmental disputes within their jurisdiction. They do not form part of the Judiciary, but are still subject to the supervisory, corrective, and financial oversight of the Supreme Court.

There are three environmental courts in Chile, located in Santiago, Antofagasta, and Valdivia. Together, they have jurisdiction over the entire country. Each court is composed of three regular judges, two of whom are lawyers, and one who is a professional in the field of sciences.

d. Ministry of the Environment

https://mma.gob.cl

Chile's Ministry of the Environment is the government body responsible for assisting the President of Chile in the design and implementation of policies, plans, and programs related to the environment, in addition to the protection and conservation of biological diversity and renewable and water resources, promoting sustainable development, the integrity of environmental policy, and its regulatory framework.

2. Environmental Legislation

Environmental regulations and sectoral environmental 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.

Any project or activity capable of causing an environmental impact, including any modifications, can only be implemented or modified following an assessment of its environmental impact.

3. Environmental Impact Assessment System (SEIA)

The Environmental Impact Assessment System (SEIA) is administered by the Environmental Assessment Service (SEA), whose main duties are to administer the SEIA and promote and facilitate public participation in the assessment of projects.

The SEIA is a preventive environmental management tool, regulated under Law No. 19.300 on the General Environmental Framework and its Regulations (Supreme Decree No. 40/2012), which enables the authorities to determine, prior to the implementation of a project, whether it:

- Complies with current environmental legislation.
- Addresses any potential significant environmental impacts.

Article 10 of Law No. 19.300 on the General Environmental Framework establishes a list of the projects or activities that can only be implemented following assessment of their environmental impact. That is, the projects that must be submitted to the Environmental Impact Assessment System (SEIA). This procedure also applies to modifications of these projects, provided that they involve significant changes (according to article 2(g) of the regulation). However, the project owner may voluntarily decide to submit their project to the SEIA.

Projects or activities that generate significant impacts (i.e., effects, characteristics, or circumstances indicated in article 11 of Law No. 19.300 and detailed in articles 5 to 10 of the regulations) are submitted as Environmental Impact Studies (EIA). Other projects are submitted as Environmental Impact Statements (DIA).

The SEIA procedure is initiated with a request from the interested party, either to the regional offices of the SEA or to the Executive Directorate for interregional projects.

a. Environmental Impact Statements (DIA)

Environmental Impact Statements (DIA) are sworn statements issued by project owners with regards to their plans, which must include the relevant provisions indicated in article 12 bis of Law No. 19.300, and which enable the relevant authority to assess whether the environmental impact is in accordance with current environmental regulations.

b. Environmental Impact Studies (EIA)

Environmental Impact Studies (EIA) consist of a detailed description of the characteristics of the project or activity to be implemented or modified. This must include the relevant provisions of article 12 of Law No. 19.300 and be accompanied by supporting documentation that enables the prediction, identification, and interpretation of the project's environmental impact. It must also contain a description of the mitigation, reparation, or compensation measures that will be taken to prevent or minimize any significant adverse effects.

To determine which projects will be subject to an EIA, the law specifies that the projects or activities listed in article 10 of Law No. 19.300, which generate or pose any of the effects, characteristics, or circumstances listed in article 11 of the same law, will require the preparation of an EIA.

These include projects or activities that generate or pose:

a. Risk to the health of the population, due to the quantity and quality of effluents, emissions, and waste.

b. Significant adverse effects on the quantity and quality of renewable natural resources, including soil, water, and air.

c. Resettlement of human communities, or significant alteration of people's ways of life and customs.

d. Locations in or close to protected populations, resources, and areas, priority sites for conservation, protected wetlands, glaciers, and areas of value for astronomical observation for scientific research purposes which are likely to be affected, together with the environmental value of the territory in which the project is intended to be located.

e. Significant alteration, in terms of magnitude or duration, of the landscape or touristic value of an area.

f. Alteration of monuments, sites of anthropological, archaeological, or historical value, and, in general, those belonging to Chile's cultural heritage.

c. Assessment of the Environmental Impact Statement (DIA) or Environmental Impact Study (EIA)

The Environmental Impact Assessment will begin with the submission of the Environmental Impact Study (EIA) or Environmental Impact Statement (DIA) by the project or activity owner to the Assessment Commission of the region where the project will be developed, or to the Executive Directorate of the Environmental Assessment Service (SEA) if the project or activity may generate environmental impacts in areas located in several regions.

With regard to the deadlines (in business days) for the environmental authority to issue a decision, this will depend on the entry route into the Environmental Impact Assessment System (SEIA):

	DIA	EIA
General timeframe	60*	120*
Exception: Extension (granted a single time in qualifying and reasonably justified cases)	30*	60*

(*In business days)

Further information is available at https://www.sea.gob.cl/evaluacion-de-impacto-ambiental/cual-es-el-proceso-de-evaluacion-de-impacto-ambiental.

It should be noted that if the SEA fails to meet the legal deadline, positive administrative silence applies, meaning that the project is considered approved.

d. Environmental Qualification Resolution (RCA)

The classification of a project as approved, approved with conditions, or rejected is determined by the Environmental Assessment Commissions (COEVA) for regional projects, and by the Executive Directorate of the Environmental Assessment Service (SEA) for interregional projects.

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

a. If the RCA approves a project, it will certify that all applicable environmental requirements are met, including any mitigation, compensation, and reparation measures, as well as the criteria for subsequent monitoring of its commitments and oversight by the Superintendency of the Environment (SMA). The awarding of an RCA authorizes the project owner to process and obtain sectoral environmental permits (PAS) from other state agencies and, ultimately, to develop or implement the project. Once an RCA is obtained, no state agency can deny the relevant subsequent environmental authorizations.

b. If, on the other hand, the RCA is not approved, the project cannot be implemented nor can it obtain the environmental permits.

The project or activity owner must comply with the conditions established in their RCA throughout the construction, implementation, and closure stages.

It is important to note that projects that, according to article 10 of Law No. 19.300, must enter the Environmental Impact Assessment System (SEIA) cannot be implemented until they obtain an RCA. Their implementation prior to this would constitute a violation that is penalized by the Superintendency of the Environment (SMA).

According to the SEA's statistical reports (https://www.sea.gob.cl/informacion-estadistica-del-seia) and information found on its advanced search engines (https://seia.sea.gob.cl/busqueda/buscarProyecto.php), approximately 94% of projects submitted to the SEIA obtain an RCA and 6% are not approved. It should be noted that since 1994, more than 19,000 projects have been approved under the SEIA.

e. Procedural Consultation

The procedural consultation is a voluntary procedure, prior to the potential submission of a project or activity, or its modification, to the Environmental Impact Assessment System (SEIA).

The project owners can approach the Regional Director or the Executive Director of the Environmental Assessment Service (SEA), as applicable, to request a determination on whether, based on the information provided for this purpose, a project (or its modification) should be submitted to the SEIA.

It is important to highlight that the procedural consultation is not an authorization and does not modify an RCA. The response to the procedural consultation is a determination from the SEA, framed within the judgments made by the state administration bodies with environmental jurisdiction in the exercising of their powers.

In this regard, it is recommended to review the following current guidelines regarding procedural consultations:

- Standard No. 20239910266, of January 18, 2023, which provides instructions on matters related to environmental procedure.
- Standard No. 202299102452, of May 30, 2022, which complements Standard No. 131456, of September 12, 2023, and provides instructions on procedural consultations for submitting projects to the Environmental Impact Assessment System.
- Standard No. 142090, of November 27, 2014, which provides instructions on procedural consultations for submitting projects to the Environmental Impact Assessment System.
- Guideline No. 131456, of September 12, 2013, which provides instructions on procedural consultations for submitting projects or activities, or their modifications, to the Environmental Impact Assessment System.

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

f. Sectoral Environmental Permits (PAS)

The Environmental Impact Assessment System (SEIA) establishes the concept of a one-stop shop, which means that all environmental permits that, according to the current legislation, must or may be issued by state administration bodies for projects or activities submitted to the SEIA will be granted through this system.

These permits may be for environmental protection purposes or one or more non-environmental (sectoral) protection objectives, and can therefore be categorized as either "solely sectoral environmental permits" (regarding environmental matters only) or "mixed sectoral environmental permits" (which include both environmental and sectoral matters). The list of sectoral environmental permits (PAS) can be found in section VII of the SEIA regulations.

Article 108 of the SEIA regulations establishes the technical and formal requirements that PAS must comply with. If their content is solely environmental, the issuance of an Environmental Qualification Resolution (RCA) will enable the permit to be granted by the competent state bodies, under the conditions expressed in the resolution. If the RCA is not approved, the relevant bodies will be obligated to deny any such permits.

With regard to mixed sectoral environmental permits, the project owner may submit non-environmental information to the competent sectoral body prior to the 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 PAS may be granted only once the project owner has obtained the RCA.

g. Public Participation

Community or public participation is fundamental within the environmental assessment process. It enables people to learn about a project or activity and gives them the chance to voice their opinion in a responsible manner. It also provides the opportunity to offer 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 (EIA) and Environmental Impact Statements (DIA), providing a solid basis for the decisions made by the authorities.

Law No. 19.300, on the General Environmental Framework, establishes the following framework for public participation:

For Environmental Impact Studies:

a. The project or activity owner must publish an extract of the Environmental Impact Study (EIA) in the Official Journal and in a newspaper with national or regional circulation.
b. Legal entities and individuals will be able to access the content of the EIA and submit their written observations to the Environmental Assessment Service (SEA) or through its website.
c. Once the extract is published in the newspaper, the public has 60 business days to make observations.

d. During the public participation period, the SEA will establish mechanisms to ensure the informed participation of the community in the process of assessing the EIA.

e. The observations submitted by the community will be considered (and responded to) by the regional SEA or the Executive Directorate (in the case of an interregional project), and will be incorporated into the basis for the Environmental Qualification Resolution (RCA), with those who submitted observations being notified.

f. There is a complaints procedure through which any individual or legal entity who has made an observation and believes that it was not properly considered (responded to) can file a complaint within 15 days for projects submitted before January 26, 2010, and within 30 days for projects submitted after that date. The deadlines are counted from the date on which the complainant is notified of the RCA.

For DIA with public participation due to environmental burdens:

a. The regional directorates or the Executive Directorate, as appropriate, may decree a public participation process for a period of 20 days for DIA that are submitted for assessment and relate to projects that generate environmental burdens for nearby communities. This is only permitted if at least two citizen organizations with legal status, through their representatives, or at least 10 directly affected individuals, request it. This request must be made in writing and submitted within 10 days from the publication in the Official Journal of the project subject to the DIA.

b. In this public participation process, both legal entities and individuals can access the content of the statement (DIA) and submit their observations in writing to the SEA.

c. The observations submitted by the community will be considered (and responded to) by the regional SEA or the Executive Directorate (in the case of an interregional project), and will be incorporated into the basis for the Environmental Qualification Resolution (RCA), with those who submitted observations being notified.

d. There is a complaints procedure through which any individual or legal entity who has made an observation and believes that it was not properly considered (responded to) can file a complaint within 30 days from being notified of the RCA.

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

h. Indigenous Peoples Consultation Process

This is a dialogue process between the State and indigenous peoples, aimed at reaching an agreement or obtaining consent regarding legislative or administrative measures that may directly affect them. Within the framework of the Environmental Impact Assessment System (SEIA), the administrative measure that may affect them is the Environmental Qualification Resolution (RCA) of a project that generates or represents any of the effects, characteristics, or circumstances outlined in article 11 of Law No. 19.300 on the General Environmental Framework.

This procedure originates from the application of the provisions of Convention No. 169 of the International Labour Organization (ILO), ratified by the State of Chile and in force since 2009.

For Environmental Impact Studies (EIA) and other corresponding cases, the Environmental Assessment Service (SEA) must design and develop a consultation process with the indigenous population in accordance with the provisions of Convention No. 169 of the International Labor Organization (ILO) and the SEIA regulations. This involves designing and developing a good faith consultation process that provides indigenous peoples with information on matters that may directly affect them, so that, through a dialogue process, agreements can be sought in a way that enables indigenous peoples to influence the decision. However, failure to reach these agreements will not affect the right to consultation.

Such processes must include appropriate mechanisms according to the sociocultural characteristics of each people and through their representative institutions when a project directly affects one or more groups belonging to indigenous peoples. For example:

a. It requires the resettlement of human communities, or significant alteration of the way of life and customs of peoples.
b. It is located in or close to protected populations, resources, and areas, priority sites for conservation, protected wetlands and glaciers, which are likely to be affected, together with the environmental value of the territory in which the project is intended to be located.
c. It generates or results in the alteration of monuments, sites with anthropological, archaeological, or historical value, and, in general, those belonging to Chile's cultural heritage.

Since 2016, the SEA has issued instructions that regulate this procedure and its various stages: https://www.sea.gob.cl/sites/default/files/migration_files/instructivos/of._ord._ndeg_161116.pdf.

To date, the SEA has conducted 88 indigenous peoples consultation processes. Of these, 64 are finalized (https://www.sea.gob.cl/portal-de-participacion-ciudadana-y-consulta-indigena/proyectos-con-pcpi-finalizados) and 24 are ongoing (https://www.sea.gob.cl/portal-de-participacion-ciudadana-y-consulta-indigena/proyectos-con-pcpi-en-proceso).

4. Environmental Assessment Service (SEA) Manuals and Guides

The Environmental Assessment Service (SEA) has guides with technical criteria that facilitate procedures for users. These cover various topics, including the environmental assessment of projects (project description guides, guides related to article 11 of Law No. 19.300, guides for the application of regulations and standards, guides for describing the area of influence, guides on public participation, guides on methodologies and models, and guides for sectoral environmental permits).

Some examples are provided below:

- 2023: Guide for the description of desalination plant projects in the Environmental Impact Assessment System (SEIA).
- 2021: Guide for the description of lithium mining and other salt flat mining projects in the SEIA.
- 2021: Guide for the description of marine salmon aquaculture projects in the SEIA.
- 2021: Guide for the description of oil and gas projects in the SEIA (second edition).
- 2023: Guide for areas of influence in marine ecosystems.
- 2023: Guide for areas of influence in wetlands in the SEIA.
- 2023: Guide for early public participation in projects submitted to the SEIA.
- 2023: Guide for public participation in the SEIA.
- 2023: Methodological guide for considering climate change in the SEIA (second edition).
- 2023: Methodological guide for biodiversity compensation in terrestrial and freshwater ecosystems (second edition).
- 2018: Guide for sectoral environmental permit procedures under article 132 of the SEIA regulations: Permit for archaeological, anthropological, and paleontological excavations.

Further information is available at https://sea.gob.cl/guias-para-la-evaluacion-de-impacto-ambiental.

On the other hand, the SEA has implemented assessment criteria in the SEIA, which are documents providing technical guidelines for the preparation of an Environmental Impact Statement (DIA) or an Environmental Impact Study (EIA) prior to the submission of projects to the SEIA. All of this information helps reduce discretionary margins in decision making, and enhances the technical sophistication of the SEIA.

Further information is available at: SEIA Assessment Criteria | SEA Chile

The SEA has developed a platform where it offers free courses, which are provided monthly. Currently, there are 13 courses available:

- Environmental Impact Assessment System (SEIA)
- Project Description in the SEIA
- Areas of Influence for Human Ways of Life and Customs in the SEIA
- Environmental Regulations Applicable in the SEIA
- Indigenous Consultation Process in the SEIA
- Waste and Effluents Within the SEIA Framework
- Description of Wind Power Plants for Electricity Generation in the SEIA
- Environmental Assessment of Air Quality in the SEIA
- Prediction and Assessment of Impacts from Noise and Vibrations in the SEIA
- Introduction to the Assessment of the Water Component in the SEIA
- Theoretical and Methodological Foundations for Biodiversity Compensation in the SEIA
- Public Participation in the SEIA
- Use of the SEA Mobile Application

Finally, the SEA has a communication channel for different stakeholders to submit inquiries, comments, or suggestions regarding the documents. To do this, they can send an email to comentarios.documentos@sea.gob.cl or contact the User Service Center.

511 projects, equivalent to US$41.3 billion, were submitted for environmental assessment in 2023, 8% higher than in 2022.

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Labor Legislation

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07 Labor Legislation

1. Regulatory Framework

Labor relations between employers and workers are governed by the Labor Code and its complementary laws.

The following are excluded from the application of these standards:

- National Congress.
- Judiciary.
- Employees of state administration bodies, state-owned companies, or companies with State contributions, participation, or representation, provided that said officials or workers are legally subject to a special statute.

2. Oversight and Jurisdiction

The Department of Labor is responsible for overseeing compliance with labor legislation. This public service is also responsible for the proper interpretation of labor legislation.

Labor claims are processed by independent courts with exclusive jurisdiction over labor matters. These courts are composed of specialized judges, and their hearings are oral and public.

3. Employment Contracts

a. Definition

An employment contract for an individual 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.

b. Minimum Age for Employment

In Chile, individuals must be of legal age, meaning they must be at least 18 years old, to freely enter into contracts for the provision of their services. However, anyone who is at least 15 years old but under 18 may work in jobs that are not considered dangerous and that, by their nature, do not interfere with their regular school attendance and/or participation in guidance or vocational training programs. They must also provide proof of being enrolled in or having completed primary or secondary education.

Additionally, they must have authorization from a parent, guardian, or the person responsible for their care. If none of these are available, authorization must be obtained from the adolescent's legal representative or the relevant Labor Inspector.

c. Contract Specifications

Among the specifications that every employment contract must have are the nature of the services, the place where they will be provided, the amount, method, and period of payment of the agreed remuneration, the duration and distribution of the working day, and the duration of the agreement.

In turn, if telework or remote work is agreed upon, this modality must be expressly specified, including whether it will be full-time or part-time, the location where the services will be performed, the duration of the agreement, the control or supervision mechanisms the employer will use, and disconnection time.

Additional benefits that the employer may provide, such as housing, accommodation, electricity, fuel, food, or other benefits, must also be recorded.

The contract must be in writing and two copies must be signed by both parties, with one remaining 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 inalienable.

d. Types of Employment Contracts

The modalities for entering into an employment contract are as follows:

- **Indefinite contract:** A contract in which the term has not been previously agreed by the parties, and may end 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 its validity. As a general rule, the maximum period permitted by law for fixed-term contracts is one year. If the worker has provided discontinuous services under more than two fixed-term contracts for twelve months or more within a fifteen-month period, counted from the first hire date, it will be legally presumed that the worker has been hired for an indefinite duration. Exceptionally, a maximum period of two years is permitted for executives or individuals with a professional or technical degree awarded by a public higher education institution or an institution that is recognized by the State.

- **Contract for works or services:** Under contracts for works and services, the worker agrees with the employer to perform a specific and determined material or intellectual task, and its duration depends on the completion of the task. The different tasks or stages of a work or service cannot, by themselves, be subject to two or more contracts of this type in succession, in which case the contract will be considered indefinite.

e. Electronic Registration of Employment Contracts

The employer must register signed employment contracts on the Department of Labor's website, specifying the agreed terms, within fifteen days of their signing. Additionally, the employer must register the termination of contracts, indicating the termination date and the reason for termination, within the deadlines established by the Labor Code.

The Department of Labor uses this information to perform its duties, which include inspections, reconciliations, mediations, the ratification of settlements, as well as for statistical purposes and studies related to labor regulations and social security. All of the above is in compliance with Law No. 19.628 on the protection of privacy.

See www.dt.gob.cl.

f. Telework or Remote Work

The Labor Code allows the parties to agree, at the beginning or during the term of the employment contract, on the modality of remote work or telework.

In general terms, remote work is considered work where the employee performs their duties, either fully or partially, from their home or locations other than the company's establishments or work sites. It is referred to as telework when the services are provided using technological, IT, or telecommunications tools, or if such services must be reported through these means.

Workers engaged in remote work or telework are entitled to all labor rights, and the applicable regulations on this matter will apply provided that they are compatible with the regulation of this work modality.

Telework or remote work can cover all or part of the workday, and can be revoked during the term of the employment contract.

In cases where the worker is responsible for the personal care of a child under fourteen years of age, or is responsible for the care of a person with a disability or in a situation of severe or moderate dependency, the employer must offer the option for the worker to perform all or part of their daily or weekly working hours under the remote work or telework modality, provided that the nature of their duties allows it.

This does not apply to workers who have the authority to represent the employer, such as managers, deputy managers, agents, or legal representatives.

4. Termination of Employment

Employment contracts can be terminated by mutual agreement between the parties, or due to resignation of the employee, death of the employee, expiration of the contract term, completion of the work or service that initiated the contract, or due to force majeure or fortuitous event. In these cases, if the reason for termination is properly applied, the employer is not required to pay compensation to the employee.

The employment contract can also be terminated by the employer in the event of misconduct by the employee, job abandonment, damages to the company, or serious breaches of the employment contract. In these cases, if the reason for termination is properly justified, the employer is not required to pay any compensation.

Similarly, the employer may terminate the employment contract citing the needs of the company, establishment, or service, such as those arising from streamlining or modernization processes, decreases in productivity, or changes in market or economic conditions.

In this latter case, compensation for the lack of prior notice may apply if the employer has not notified the employee 30 days in advance of the contract termination, and this compensation would be equivalent to the last monthly salary earned by the employee. Additionally, severance pay may be applicable, equivalent to one month's salary for each year of service for periods exceeding six months worked continuously for the same employer, with a maximum cap of 11 years.

Furthermore, compensation for annual vacation or holiday pay applies to employees who terminate their employment contract for any reason without having taken their annual vacation. This compensation is equivalent to the full salary for the unused vacation days. If the employee has not been employed for a full year and is therefore not entitled to vacation, the compensation is calculated proportionally based on the time between the start of the employment or the completion of the last year of work and the termination of services.

5. Subcontracting

Chilean labor legislation permits the subcontracting of employees, which is defined as work carried out by virtue of an employment contract by an employee for an employer, referred to as a contractor or subcontractor, who by reason of a contractual agreement, performs works or services at its own risk and with its own employees for a principal employer which owns the work, company, or site at which the contracted services or works are performed, provided that they are not sporadic or discontinuous.

Regarding subcontracting, it is important to note that the contracting company is always the primary party responsible for fulfilling the obligations outlined in the employment contract with the employee.

However, the principal company is jointly and severally liable for labor and social security obligations affecting the contractors' employees, during the period in which the employees provided services under subcontracting arrangements for the principal company. Similarly, the contractor will be jointly and severally liable for the obligations that affect its subcontractors' employees.

The principal company has the following rights under the subcontracting regime:

- **Right to information:** The principal company has the right to be informed by the contractor of the amount and the status of its labor and social security obligations.
- **Right to withhold:** If the contractor or subcontractor does not opportunely verify full compliance with its labor and social security obligations with respect to its employees, the principal company may withhold the amount for which it is liable from its obligations to the contractor.

If the principal company chooses to exercise these rights, it will be able to access a subsidiary liability regime, in which it will only be liable 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 workers serving a single employer must be Chilean, unless the company has fewer than 25 employees.

To determine this proportion, the employer's total number of workers in Chile must be considered, rather than the number at each separate branch. Specialist technical personnel who cannot be replaced by Chilean workers are exempted from this rule.

Additionally, foreigners will be considered as Chileans if their spouse or civil partner, or their children, are Chilean, or if they are widows or widowers of a Chilean spouse. Foreigners who have resided in the country for more than five years, without counting temporary absences, will also be considered as Chileans.

7. Remuneration

In Chile, remuneration is considered to include all monetary compensation and additional benefits in kind with monetary value received by employees from the employer under the employment contract.

Remuneration is agreed upon by mutual consent between the employee and the employer, but it cannot be less than the designated minimum monthly wage, which is established annually by law and applies to all workers, except those exempt from complying with workday regulations.

8. Vacation

Workers with more than one year of service are entitled to an annual vacation of 15 working days with full remuneration. Specifically, those working in the Magallanes and Chilean Antarctic Region, the Aysén Region, and in Palena Province, are entitled to an annual vacation of 20 working days.

The vacation is granted preferably in spring or summer, taking into account the service's needs, and preferably during the school vacation period defined by the Ministry of Education for workers who are responsible for the personal care of a child under fourteen years of age or an adolescent under eighteen with a disability or in a state of severe or moderate dependency.

Law No. 21.578 establishes that, starting from July 1, 2024, the minimum monthly wage for workers aged 18 to 65 will be CLP 500,000. Meanwhile, the minimum wage for workers under 18 years old and over 65 years old will be CLP 372,989.

The vacation must be continuous, but any days exceeding ten working days can be split by mutual agreement. The vacation can also be accumulated by agreement between the parties, but only for up to two consecutive years. Vacation cannot be compensated by remuneration, except in the event of early termination of the employment contract.

Obligatory national holidays are those established in article 2 of Law No. 19.973, and are intended to guarantee the rest of employees on specific dates. During these national holidays, businesses must remain closed, and any employer who violates these regulations is subject to fines. Currently in Chile there are four national holidays with these characteristics: January 1, May 1, September 18, and December 25.

Only clubs and restaurants, entertainment establishments, gas stations, and emergency or on-call pharmacies are exempt from this regulation. In these cases, the employer may obligate employees to work during national holidays, but must compensate for this by granting the employee a rest day on another day during the week.

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Social Security

08

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08 Social Security

In Chile, there is a set of laws, policies, and social protection measures that form part of the social security system. This system is aimed at safeguarding individuals against situations that may prevent them from generating income at various stages and during different life events, such as old age, unemployment, illness, disability, workplace accidents, maternity, or the loss of a family provider.

1. Components of the Chilean Social Security System

Chile's current social security system includes the following components:

- Pension system, covering old age, disability, and survivors' benefits.
- Healthcare system, which provides coverage in cases of illness and pregnancy.
- Workplace accidents and occupational disease insurance, regarding health and safety at work.
- Unemployment insurance, for the contingency of unemployment.

2. Pension System: Individual Capitalization System

In 1980, Chile established an individual capitalization system for pensions through Decree-Law No. 3.500. Under this system, workers are required to deposit a portion of their taxable salary each month into a personal account managed by a pension fund administrator (AFP).

The purpose of these funds is to finance the future pension that the individual will receive upon retirement and, in case of death, to provide a survivor's pension for their beneficiaries.

Every worker must sign up with an AFP, which is a process they must complete personally, and can freely choose their preferred pension fund administrator.

For workers with an employment contract, the employer is responsible for deducting the monthly pension contribution from the employee's salary and depositing it into their individual AFP account.

Currently, the mandatory pension contribution to individual accounts is set at 10% of an employee's monthly taxable salary, with an upper limit of 84.3 UF (Chilean inflation-linked units of account, approximately US$2,500) for 2024, which is adjusted annually. Additionally, AFPs charge a management fee that varies between approximately 0.47% and 1.54%.

Due to the risk of disability or death among workers, AFPs are also required to collectively contract disability and survivor's insurance for their members. This insurance is funded by employers through an additional contribution or a fee charged by pension fund administrators. From October 1, 2023, the uniform rate that employers must pay for this insurance is 1.47% of the employee's taxable salary.

3. Healthcare System: Mixed System

Currently, the Chilean healthcare system is mixed. Under this system, people can choose to contract public health insurance, administered by the National Health Fund (FONASA), or private health insurance, provided by private health insurance companies (ISAPRE).

The healthcare contribution is 7% of each member's monthly taxable income, with a cap of 5.901 UF (Chilean inflation-linked units of account, approximately US$170) for 2024.

For workers with an employment contract, the aforementioned amount must be withheld and paid monthly by the employer to FONASA or to the ISAPRE selected by the employee.

4. Workplace Accidents and Occupational Disease Insurance

Law No. 16.744 regulates workplace accidents and occupational disease insurance, which protects all employed and self-employed workers against accidents that occur as a result of or in connection with work and diseases directly caused by performing their duties.

This insurance is financed through a basic contribution of 0.9% of taxable salary and an additional contribution differentiated based on the activity and risk level of the company, which cannot exceed 3.4% of taxable salary.

5. Unemployment Insurance

Law No. 19.728 establishes mandatory unemployment insurance for workers with employment contracts governed by the Labor Code, in the event that their employment relationship is terminated for any reason.

The insurance is managed by the Unemployment Fund Administrator (AFC). Each AFC member has an individual unemployment account, funded through different contributions:

- The individual contribution of workers with an indefinite contract is 0.6% of their taxable salary. Workers with a fixed-term contract or a contract for specific works or services are not required to make contributions.
- The employer's contribution is 2.4% of the taxable salary of employees with an indefinite contract. Of this contribution, only 1.6% is credited to the worker's individual account, while the remaining 0.8% goes into a collective fund known as the Solidarity Unemployment Fund. It should be noted that the 1.6% employer contribution can be deducted from severance pay for years of service to which employees with indefinite contracts are entitled when they are dismissed due to "the needs of the company". In the case of workers with a fixed-term contract or a contract for specific works or services, the employer's contribution is 3%. The cap for calculating these percentages is 126.6 UF (Chilean inflation-linked units of account, approximately US$3,600) for 2024.
- For the Solidarity Unemployment Fund, the State also makes an annual contribution.

In the case of unemployment, the individual can withdraw the funds in monthly installments. If there are no funds available, they can access the Solidarity Unemployment Fund provided that they meet the termination conditions and the established contribution requirements.

Requirements to claim unemployment insurance:

- Be unemployed, with the employment contract having been terminated for any reason.
- If the employment contract was indefinite, the worker must have made at least 10 monthly contributions from the time of joining (or from the last unemployment insurance claim) until the month in which the employment relationship was terminated. The contributions can be continuous or discontinuous and from one or more employers.
- If the employment contract was for a fixed term or for specific works or services, the worker must have made at least six monthly contributions from the time of joining (or from the last unemployment insurance claim) until the month in which the employment relationship was terminated. The contributions can be continuous or discontinuous and from one or more employers.

6. Maternity, Paternity, and Family Life Benefits

The law grants rights to leave, subsidies, and job protection to all pregnant workers. It also guarantees working parents leave following the birth of their child, as well as rights and subsidies for male or female workers who are responsible for the care of a child, among other benefits.

All employed or self-employed workers who make pension contributions, from both public and private companies and institutions, are entitled to these benefits.

The employer cannot make the hiring, renewal or continuation of a contract, or promotion conditional on whether an employee is pregnant, nor can it request any certificate or examination to verify said condition.

a. Maternity Protection:

This is the protection that is granted to pregnant employees, and its aim is to ensure the stability of their employment from the beginning of the pregnancy up to one year after the end of the postnatal leave period.

This protection includes the right not to be dismissed by the employer, unless with authorization from the competent judge, who can only grant dismissal for the following reasons: expiration of the agreed term, completion of the work or service that gave rise to the contract, or actions attributable to the worker's behavior.

In the event that the father makes use of parental leave, he will also receive job protection for a period equivalent to twice the duration of his leave, starting 10 days before the beginning of the leave period. However, the father's job protection cannot exceed three months.

b. Maternity Leave:

Every female worker is entitled to the maternity leave outlined below, regardless of the start date of their employment.

It is important to note that this maternity leave entitles the worker to receive a subsidy, which is administered by the health insurance institution with which they are registered (ISAPRE or FONASA).

- Antenatal leave: 6 weeks before the birth.
- Postnatal leave: 12 weeks after the birth.
- Paternity leave: The father is entitled to five days of paid leave, which can be taken continuously from the date of the child's birth, or distributed during the first month of their life. Fathers who adopt have the same right, starting from the resolution granting them care of or accepting the adoption of the child.
- Additional postnatal leave: At the end of the postnatal period, female employees are entitled to further postnatal leave of 12 additional weeks.

However, female employees may choose to return to work for half of their working day during this period, in which case the leave will be extended to 18 weeks, receiving 50% of the legally established subsidy.

If both parents are employed, either of them, at the mother's discretion, may take additional postnatal leave for the number of weeks indicated by the mother. The weeks used by the father must be during the final period of the postnatal leave, and will entitle them to the same subsidy as that granted to the mother.

If the mother decides to transfer weeks to the father, they can transfer a maximum of 6 full-time weeks. However, if the mother decides to take 18 weeks part-time, they can transfer a maximum of 12 weeks part-time.

c. 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.

The employer may fulfill this obligation in various ways:

- By creating and maintaining a daycare center that is attached and independent from the workplace.
- By building or providing and maintaining communal daycare services with other establishments in the same geographic area.
- By paying daycare expenses directly to an establishment that is recognized by the National Board of Preschools (JUNJI).

The right to daycare is valid for children aged between 84 days and 2 years.

This right is generally exercised by the mother. However, it may be exercised by the father in the event of death of the mother or when the mother is not personally responsible for the care of the child under two years of age due to a court ruling.

d. Feeding Permission:

Female employees are entitled to have at least one hour a day to feed their children under two years of age, which beneficiaries can use in any of the following ways:

- At any time during the working day, established by mutual agreement with the employer.
- By requesting that 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.

In the event that the father and the mother are both employed, both parents can agree that the father will exercise this right. Employed fathers may also exercise the aforementioned right if they are responsible for the child's care through a court ruling, or if the mother is deceased or unable to exercise this right.

This right is not subject to any type of deduction, and the time used to feed the children is considered as one hour worked.

More information on this chapter is available at:

- www.dt.gob.cl
- www.suseso.cl
- www.superdesalud.gob.cl
- www.afc.cl

In Chile, there is a set of laws, policies, and social protection measures that form part of the social security system.

This system safeguards individuals against situations that may prevent them from generating income.

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Intellectual Property

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09 Intellectual Property

1. The Agricultural and Livestock Service (SAG) is responsible for plant varieties; certain denominations of origin (wine regions, pisco, pajarete, and sun-aged wine), and undisclosed information on agrochemical products. Meanwhile, the Public Health Institute (ISP) is responsible for undisclosed information on pharmaceuticals.
2. Denominations of origin or

1. Regulatory Framework

Intellectual and industrial property in Chile is primarily regulated by Law No. 17.336, which covers copyright and related rights, Law No. 19.039 on industrial property, and by international treaties signed by Chile that are in force.

2. Institutional Structure

There are several institutions in Chile responsible for intellectual property matters. The main ones[1] are:

- The Institute of Industrial Property (INAPI): Public agency responsible for the administration and management of industrial property services, with authority over invention patents, utility models, industrial designs and drawings, layout designs or topographies of integrated circuits, trademarks (including collective and certification marks), and denominations of origin and geographical indications.

  Further information is available at www.inapi.cl.

- The Intellectual Rights Department (DDI): Public agency under the National Service for Cultural Heritage, responsible for the registration of copyright and related rights (performing artists, record producers, and broadcasting organizations).

  Further information is available at www.propiedadintelectual.gob.cl.

b. Limited Liability Company

This type of company is governed by Law No. 3.918, supplemented by the Code of Commerce and the Civil Code. It is established through a public deed, an extract of which is registered in the Commercial Registry and published in the Official Journal. Alternatively, it can be created through the simplified system described above.

3. Industrial Property

It is important to note that, for the purposes of processing trademark and patent registrations, individuals or legal entities residing abroad must appoint a representative or agent in Chile.

a. Trademark Registration

The term "trademark" refers to any sign capable of distinguishing products or services on the market. Trademarks may be traditional (word or denomination, figurative, or mixed) as well as non-traditional (sound, three-dimensional, position, pattern, motion, multimedia, and hologram, among others).

The protection granted by trademark registration is only valid in Chile and is temporary, lasting for 10 years, renewable indefinitely for equal periods upon payment of the corresponding fee.

geographical indications follow the same registration procedure, with certain differences specific to the nature of these industrial property rights.

The trademark registration procedure[2] includes the following stages:

i. Application

The application is made via INAPI's website. The applicant or their representative must have a unique code (Clave Única) issued by the Civil Registry of Chile, which will be considered as an electronic signature for the application. The corresponding fee must be paid to submit the application.

The application must properly identify the sign that constitutes the trademark and request protection for specific products or services within the respective class (INAPI has adopted the Nice Classification).

ii. Formal Examination

Once the trademark registration application has been submitted, INAPI conducts a formal examination, and may accept or review the application.

If the application 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.

If the application is accepted for processing: The applicant must request and pay for the publication of their trademark registration application on the Official Journal's website within 20 business days. Following publication of the application, a period of 30 business days begins during which third parties may oppose the application.

If oppositions are filed: An opposition procedure is initiated. For this opposition procedure, it is necessary to be represented by an attorney.

iii. Substantive Examination

Regardless of whether an opposition has been filed, INAPI conducts a substantive examination to verify that the trademark application does not incur any of the legal grounds for ineligibility.

iv. Final Resolution

The final resolution is issued by the national director of INAPI, who may:

- Accept the trademark, in which case the applicant must pay the final fees within 60 days from the notification of the resolution. Following payment, the registration and the corresponding Trademark Certificate are granted. The trademark is valid for 10 years from the registration date, and is renewable indefinitely.

- Reject the trademark, in which case the applicant may appeal to the Intellectual Property Court with the support of an attorney.

b. Patent Registration

A patent is the exclusive right granted by the State for the protection of an invention, a utility model, or an industrial design or drawing, preventing third parties from commercially exploiting the invention for a specified period.

The protection granted by the patent is valid only in the country where it was granted.

The procedure outlined below for obtaining a patent for an invention also applies, as relevant, to utility models, industrial designs, industrial drawings, or layout designs or topographies of integrated circuits.

i. Application/Submission

The application is submitted online through INAPI's website. To submit online applications, the applicant or their representative must have a unique code (Clave Única) issued by the Civil Registry of Chile, which will be considered as an electronic signature for the application or submission. The corresponding fee must be paid to submit the application.

It is mandatory to include all the required information and documentation related to the application on INAPI's online platform, in Spanish.

ii. Formal Examination (Preliminary Stage):

After the application has been submitted, INAPI conducts a preliminary examination to verify that it meets the minimum formal requirements to proceed with processing.

If the application is challenged: The applicant must respond to the observations within 60 business days, making the necessary corrections, clarifications, or providing the required documents. Failure to do so will result in the application being treated as not submitted.

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

iii. Publication

Once the patent application is accepted for processing, INAPI prepares an extract for the applicant to request its electronic publication in the Official Journal within 60 days of the application's acceptance for processing. The publication can be done online.

If the publication of the extract in the Official Journal is not requested in time, the application will be considered to be abandoned. It is possible to request that the application be reopened provided that the publication is requested within 45 days from the abandonment date and the corresponding fee is paid. Otherwise, the application will be definitively archived.

Suspension of the publication: During the preliminary examination stage, and before the application is accepted for processing, the applicant may request the suspension of the national publication for a maximum period of 18 months for patent applications and utility models, starting from the international filing date if no priority is declared, or 6 months for industrial design and drawing applications.

This request must be based on the harm that the publication in Chile may cause to the legitimate interest of the applicant abroad, considering the nature of the industrial property right.

The applicant must notify within the stated period that the harmful effect of the publication in Chile has ceased, and request the publication. If the period expires without the publication having been requested, INAPI will order the publication without any further procedures.

iv. Opposition

Any interested party may file an opposition to the patent application within 45 days of the extract being published in the Official Journal. Admissible grounds are that it does not comply with patentability requirements, or that it infringes on their rights. The opposition makes the procedure contentious, meaning that the parties must be represented by an attorney.

v. Expert Assessment Stage

The applicant must pay the expert's fees and report this payment to INAPI no more than 45 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 payment of the expert's fee and corresponding reopening fee within 45 business days from the date of the resolution that declared the application abandoned. Otherwise, the application will be definitively archived.

After the expert's fee has been paid, INAPI will appoint an expert, who must issue a report containing a technical analysis of the application within 60 business days, which will include an opinion regarding whether it complies with patentability requirements.

If the expert's report raises observations, the applicant or the parties, as applicable, have 60 business days to submit their comments on the report. In turn, the expert may make formal observations, proposing the rejection of the application.

If there are no observations, the expert will propose the acceptance of the application, and it will proceed to the final review stage, pending resolution.

vi. Resolution Stage

When the application meets the patentability requirements, the national director of INAPI issues a resolution granting the industrial property right, after a formal review of the documentation.

On the other hand, if the application does not meet the patentability requirements, a rejection resolution is issued. The applicant may file an appeal, which will be processed and resolved by the Industrial Property Court.

vii. Payment of Fees and Verification

Once the application is definitively accepted, the corresponding fees for the first ten years of validity for invention patents, and the first five years for utility models, industrial designs and drawings, and integrated circuit topographies or layouts must be paid. The remaining validity period can be paid in annual installments or as a lump sum for the remaining period.

This payment must be verified to INAPI within 60 business days following the notification of the definitive acceptance resolution. If the payment is not credited within the aforementioned period, the application will be considered to be abandoned and will be archived. However, the applicant may request the reopening of the application by verifying the corresponding payment.

viii. Certificate

After the payment has been made, INAPI will prepare the registration and issue a certificate that recognizes that a specific person owns the respective industrial property.

The validity of an invention patent is 20 years from the date on which the application is submitted to INAPI. For industrial designs and drawings, the validity period is 15 years. Finally, utility models and integrated circuit layout or topography patents have a validity period of 10 years. These periods are not renewable.

Provisional patents: A provisional patent application for invention patents or utility models can be filed without submitting all the required documents, granting the applicant a priority right for one year from the submission date, during which time a definitive application can be filed.

It is sufficient to submit a document in English or Spanish that clearly and comprehensively describes the invention or utility model, and, if necessary, includes at least one drawing.

If the definitive application is not filed within this period, the provisional patent application will be considered as not filed. The provisional patent application can be used as the priority for a Patent Cooperation Treaty (PCT) application. Subsequently, when national phase submission is due, a definitive application can be filed with INAPI.

The validity period of the definitive patent application will be counted from the submission date of the provisional application.

c. Submitting Patent Applications via the PatentCooperation 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 submitting an international patent application for inventions and utility models in a large number of countries without the need to file separate applications. The granting of patents is the responsibility of national or regional patent offices during what is called the "national phase".

The PCT procedure includes the following stages:

Filing: The applicant files an international application with a national or regional patent office or WIPO, complying with the PCT requirements.

International search: An "International Searching Authority" (ISA) identifies the published patent documents and technical literature which may have an influence on whether the invention is patentable, and establishes a written opinion on the invention's potential patentability.

International publication: After 18 months from the filing date of the initial application has passed, the content of the international application is disclosed publicly.

Supplementary international search (optional): A second ISA identifies, at the applicant's request, published documents which may not have been found by the first ISA which carried out the main search.

International preliminary examination (optional): At the applicant's request, one of the ISAs carries out an additional patentability analysis, usually on a version of the application that the applicant has amended in light of content of the written opinion.

National phase: After the end of the PCT procedure, usually at 30 months from the earliest filing date of the initial application, for which priority is claimed, the applicant can start to pursue the granting of their patents directly before the national or regional patent offices.

In addition to being the receiving office designated in Chile, INAPI functions as the International Searching Authority (ISA) and the International Preliminary Examining Authority (IPEA), and acts as a designated/elected office for the PCT, primarily receiving foreign patent and utility model applications that are filed during the national phase in Chile.

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

d. Deposit of Microorganisms

When an invention involves a microorganism or its use, as occurs in areas such as food and the pharmaceutical industry, the Budapest Treaty offers a practical solution for applying for patents that involve biological material in more than 80 countries, including Chile, through the international recognition of a single deposit with a specialized international authority.

The Budapest Treaty is administered by the World Intellectual Property Organization (WIPO) and has been ratified by Chile. It certifies that sending a sample of the microorganism to any International Depositary Authority (IDA) is valid before the industrial property offices of the contracting parties. Chile's Agricultural Research Institute (INIA) is an International Depositary Authority, and specific microorganisms can be sent to its operational unit at the Chilean Collection of Microbial Genetic Resources.

Further information is available at www.cchrgm.cl.

4. Copyright and Related Rights

a. Copyright

Copyright refers to the rights that creators of intellectual works in the literary, artistic, and scientific domains acquire simply by the creation of the work, regardless of its form of expression.

Copyright has two important aspects:

- Economic rights, which allow the owner or their successors to benefit from the use, reproduction, communication, and dissemination of the literary or artistic work by any means or procedure.
- Moral rights, which are personal, non-transferable, and indefeasible, such as the right to attribution and integrity of the work, the right to withdraw or retract, etc.

b. Related Rights

Rights related to copyright are those granted by law to artists and performers who, without being authors, contribute creativity, technique, or organization in the process of disseminating a work to the public. The interpretation or performance, or the recording on a phonogram or broadcast, is the object protected by related rights.

Their purpose is to protect the legal interests of specific individuals 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 similar to copyright.

c. Intellectual Property Registration

The Intellectual Rights Department, under the National Service for Cultural Heritage, is responsible for the registration of intellectual property (copyright and related rights).

The use of public records of works is convenient and offers the advantage of facilitating the presumption established by legislators in Chile, which assumes that the author of a work, unless proven otherwise, is the person who appears as such when the work is disclosed by indicating their name, pseudonym, signature, or symbol that identifies them in a usual manner, or the person to whom, according to the relevant registration, the registered copy of the work belongs.

The Intellectual Rights Department provides the following services:

- Registration of works: Registration of original literary, artistic, and literary-scientific creations expressed by any means or medium, including photographs, designs, databases or data compilations, software, engineering and architecture projects, cinematographic works, websites, and characters, etc.
- Registration of pseudonyms.
- Registration of copyright and publishing assignment contracts.
- Registration of phonograms.
- Issue of registration certificates for works, pseudonyms, contracts, and phonograms.

- Providing legal information related to the registration of intellectual property as evidence to public prosecutor's offices, or to national or international specialized 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 www.propiedadintelectual.gob.cl.

5. Registration of ".cl" domain names

The registration of ".cl" domain names, which identify Chile on the internet, is administered by NIC Chile. This is an agency of the Faculty of Physical and Mathematical Sciences of Universidad de Chile.

The registration of these domains is requested electronically through the creation of a user account at www.nic.cl. They can be requested by individuals or legal entities, both public or private, domiciled in Chile or abroad. Hiring a local representative is not mandatory, and must be evaluated by each interested party.

It is important to note that if a third party considers its rights or interests to be affected by the registration of a ".cl" domain name, it may initiate a revocation procedure. If the request is based on a preferential right, it must be filed within 30 calendar days of registration. After this period has elapsed, it may only invoke the grounds of abusive registration.

Disputes arising from the revocation of a ".cl" domain name will be submitted to an arbitration procedure, which is processed electronically.

Further information is available at www.nic.cl.

Intellectual and industrial property in Chile is primarily regulated by Law No. 17.336, which covers copyright and related rights, Law No. 19.039 on industrial property, and by international treaties signed by Chile that are in force.

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Personal Data Protection and Privacy

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10 Personal Data Protection and Privacy

1. Regulatory Framework

The protection of individuals' privacy is regulated by Law No. 19.628 of 1999 on the Protection of Privacy and its subsequent amendments, whose purpose is to provide adequate protection against potential unlawful intrusions.

This legislation protects the privacy of individuals against the possibility of being affected by the collection, registration, processing, transfer, or use, in any form, manual or automated, of their personal data in registers or databases, by individuals or public agencies. In this way, the law regulates the processing of personal data, the operation of databases, the rights and duties of data subjects and data controllers, and includes a mechanism for dispute resolution.

Article 33(m) of Law No. 20.285 of 2008 on Access to Public Information establishes that one of the functions of the Transparency Council is to ensure compliance with Law No. 19.628 on the Protection of Personal Data by State Administration Bodies.

Meanwhile, Law No. 21.096 of 2018, which amends article 19(4) of the Constitution of Chile, incorporated the right to personal data protection as a fundamental right.

Article 19(4) of the Constitution of Chile:

"The Constitution guarantees all individuals: (…) respect and protection of their privacy and that of their family, and also protection of their personal data. The processing and protection of this data will be handled in the manner and under the conditions determined by the law (…)"

Since its enactment in 1999, Law No. 19.628 has been amended on multiple occasions:

- Law No.19.812 of 2002, which also included an amendment to the Labor Code, established that personal data of an economic, financial, banking, and commercial nature should not be used to discriminate against individuals applying for a job.
- Law No. 20.463 of 2010, which prohibited financial database administrators from processing personal data related to debts of individuals incurred during the period in which they were unemployed.
- Law No. 20.521 of 2011, which established that all types of commercial risk assessments must be based on objective information regarding the individual's financial situation.
- Law No. 20.575 of 2012, which introduced the principle of purpose and aimed to prevent abuse in the processing of personal data, also known as the Commercial Information Directory (DICOM) Law.
- Law No. 21.214 of 2020, which prohibits reporting debts incurred to finance education at any level.
- Law No. 21.504 of 2022, which prohibits reporting debts incurred to finance healthcare services.

2. Institutional Structure

Current legislation in Chile has not granted any public agency the authority to enforce Law No. 19.628, nor the power to penalize or compel private entities that process personal data, in order to ensure proper processing of personal data. In the absence of a supervisory authority, the legality of personal data processing is guaranteed solely by the law. Recently, legislative initiatives have been discussed to establish a public supervisory authority, which have proposed granting specific powers and authorities to the National Consumer Service, the Transparency Council, or even creating a personal data protection agency.

Regarding the processing of personal data by public agencies, Law No. 20.285 on Access to Public Information entrusts the Transparency Council to ensure proper compliance with the law on the protection of personal data by state administration bodies.

3. Some Definitions Contained in Law No. 19.628 Include:

a. Data: The Law Establishes Four Categories of Data:

- **Personal data:** Data belonging to identified or identifiable individuals (article 2(f)).
- **Sensitive data:** Data linked to an individual's physical characteristics or moral character, or to events or circumstances of the individual's private life or personal matters, such as personal habits, race, ideologies, political views and opinions, religious beliefs or convictions, physical or mental health status, and sexuality (article 2(g)).
- **Obsolete data:** Data that has become obsolete for any of the following reasons:
  - Legal provisions.
  - Fulfillment of the condition or the period for which it can be stored.
  - In the absence of an express rule, due to a change in the events or circumstances to which it refers (article 2(d)).
- Statistical data: Data which, both due to its origin and its processing, cannot be linked to an identified or identifiable individual (article 2(e)).

b. Functional Data Register or Database: An organized set of personal data, whether automated or not, regardless of the method of creation or organization, that enables the data to be related or otherwise processed (article 2(m)).

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

4. Principles Covered by Law No. 19.628

- **Principle of lawfulness:** In accordance with article 4 of Law No. 19.628, the processing of personal data is only permitted when it is explicitly authorized by law or with the express consent of the data subject.
- **Principle of special protection of sensitive data:** Law No. 19.628 establishes a special level of protection for certain personal data that, due to its nature, is considered sensitive. This includes personal data related to a person's physical characteristics or moral character, or to events or circumstances of their private life or personal matters, such as personal habits, race, political views and opinions, religious beliefs or convictions, physical or mental health status, and 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 data subject; c) such data is necessary for determining whether the individual in question may be entitled to health benefits.

– Principle of data accuracy or quality: Information contained in the databases must be accurate, up to date, and correspond truthfully to the individual's real situation (article 9, paragraph 2). Failure to comply with this obligation entitles the individual to request that the data be modified, blocked, or erased.

– Principle of purpose: Personal data may only be used for the purposes for which it was collected (article 9 of Law No. 19.628).

– Principle of informed consent of the data subject: In order to safeguard individuals' right to control information concerning them, the law establishes that the processing of personal data can only be carried out with express authorization either by law (Law No. 19.628 or other) or by the data subject. The authorization from the data subject must be granted explicitly and in writing, for which the individual must be informed about the purpose of storing their data and its potential publication. The data subject can—in writing—revoke the authorization granted without the need for a justified reason. Such revocation does not operate retroactively (article 4).

There are three exceptions to this principle:

1. When the data is obtained from publicly accessible sources, that is, public or private records or compilations of personal data with unrestricted access or access available upon request (article 2(i)).

   This type of data may be processed without the authorization of the data subject when: a) it is of an economic, financial, banking, or commercial nature; b) it is contained in lists relating to a category of individuals that only indicate details such as the individual's membership in that group, their profession or activity, their educational qualifications, address, or date of birth; c) it is necessary for direct response commercial communications or for direct marketing or sales of goods or services (article 4, paragraph 5).

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

3. Processing of personal data by public agencies, which may only refer to matters within their jurisdiction and will be subject to the provisions of Law No. 19.628 (article 20).

– **Principle of security:** According to the provisions of article 11 of Law No.19.628, the person responsible for the records or databases in which personal data is stored must safeguard them with due diligence, and is responsible for any damages caused.

– **Principle of confidentiality or secrecy:** According to the provisions of article 7 of Law No. 19.628, when the data originates or has been collected from sources that are not publicly accessible, individuals involved in the processing of such personal data—whether from the public or private sector—are obligated to maintain confidentiality regarding the data, as well as any related information and records connected to the database. This obligation subsists even after the individual has ceased their activities in this field.

5. Rights of Data Subjects

– **Right to information or access:** A data subject may request information from the database manager regarding data related to them, its origin and the recipient, the purpose of storage, and the identity of persons or organizations who receive the individual's data on a regular basis (article 12 of Law No. 19.628).

– **Right to modification or rectification:** The law authorizes 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 of Law No. 19.628).

– **Right to cancellation or erasure:** Personal data must be erased or canceled when there are no legal grounds for its storage or when it has expired (article 6, paragraph 1 and article 12, paragraph 3 of Law No. 19.628).

– **Right to blocking:** In cases where information cannot be canceled, managers of databases containing personal data must block data for which the accuracy of the information cannot be ascertained or its validity is questionable (article 6, paragraph 3 of Law No. 19.628).

6. Use of Personal Financial Data

a. Financial Information That Can Be Disclosed

Article 17, paragraphs 1 and 2 of Law No. 19.628 specify the types of financial information that may be disclosed by those responsible for managing personal data registers or databases. These include:

Obligations of an economic, financial, banking, or commercial nature, which consist of: a) protested bills of exchange and promissory notes; b) checks protested due to non-sufficient funds, issued against closed accounts, or for other reasons; c) defaults on obligations arising from mortgage loans, and loans or credits issued by banks, financial institutions, mortgage lenders, savings and loan cooperatives, public institutions, state-owned companies subject to common legislation, and credit management companies for retail purchases.

Financial obligations determined by the President of Chile via supreme decree. Such obligations must be supported by validly issued payment instruments that include the debtor's or obligor's express consent and the due date.

b. Financial Information That Cannot Be Disclosed

Article 17, paragraph 2 of Law No. 19.628 specifies the types of financial information that cannot be disclosed by those responsible for managing personal data registers or databases. These include:

- Debts incurred with public or private companies that provide basic services such as electricity, water, telephone, and gas.
- Debts incurred with higher education institutions, in accordance with Law No. 18.591, which establishes complementary regulations for financial administration, budgetary impact, and personnel; and Law No. 19.287, which amends Law No. 18.591, and establishes regulations on university credit solidarity funds.
- Debts incurred with banks or financial institutions, in accordance with Law No. 20.027, which establishes regulations for financing higher education studies.
- Debts incurred under student financing programs for higher education studies, managed by the Chilean Economic Development Agency (CORFO).
- Debts incurred for the purpose of obtaining formal educational services, for oneself or others, at any level.
- Debts incurred with public or private healthcare providers and related entities, including financial institutions, retail companies, or similar organizations, within the scope of outpatient, hospital, or emergency healthcare services, such as consultations, procedures, tests, programs, surgeries, or operations.
- Debts incurred with highway concession holders for the use of their infrastructure.
- Protested documents or overdue debts originated during the debtor's period of unemployment.

7. Special Regime for Data Processing by Public Institutions

Law No. 19.628 subjects the processing of personal data by public institutions to a special legal framework. One of the main distinctions of this regime compared to the general regulations lies in the Civil Registry and Identification Service's explicit legal mandate to manage a register of personal data databases maintained by public institutions. This register must include all personal data database maintained by public authorities and state institutions, described and governed by the Constitution of Chile, as well as those covered under article 1, paragraph 2, of the Constitutional Organic Law on the General Administrative Framework for State Administration (Decree with Force of Law No. 1/19.653 of the Ministry of the General Secretariat of Government, 2001).

As such, databases held by ministries, regional governments, provincial governments, the Comptroller General of the Republic, the Central Bank, the Armed Forces and public order and security forces, municipalities, public services, and public companies created by law must be entered in this register. The databases of the National Intelligence Agency must also be included in the register, as due to its legal status this institution qualifies as a public service under the second paragraph of article 1 of the aforementioned law. This register provides information on the following aspects related to databases held by public institutions: the legal basis for their existence, their purposes, the types of data stored, and a description of the population covered.

8. Jurisdictional Control

Article 16 of Law No. 19.628 identifies a tool for controlling data processing, commonly known as habeas data, which allows data subjects to request, through legal channels, access to their personal data stored in a register or database, or to request its correction, erasure, completion, or reservation.

The habeas data procedure applies in cases where: a) the institution responsible for the register or database fails to respond to a request for information, modification, cancellation, blocking, or erasure of personal data within two business days; b) the request for information, modification, cancellation, blocking, or erasure of personal data is denied for reasons of national security or national interest; and c) the institution responsible for the register or database violates articles 17 and 18 of Law No. 19.628, which regulate how and when economic, financial, banking, or commercial data can be shared with third parties.

The affected person may appeal to the court in the domicile of the institution responsible for the register or database. The court must proceed with the request through a brief and summary procedure regulated in article 16, paragraph 2 of Law No. 19.628.

If the claim is accepted, the ruling will set a reasonable deadline for compliance and may impose a fine of between one and ten monthly tax units, or between ten and fifty monthly tax units if the data pertains to economic, financial, banking, or commercial obligations (article 16, paragraph 5 of Law No.19.628).

Failure to comply with the court's ruling will result in a fine of between two and fifty monthly tax units. If the entity responsible for the database is a public institution, the court may penalize the head of the service by suspending them from their position for five to fifteen days (article 16, paragraph 6 of Law No. 19.628).

Both of these elements of the final ruling may be appealed before the relevant Court of Appeals. The decision on the appeal will not be subject to cassation.

Exceptionally, if the reason for denying the request is national security or national interest, the claim must be filed with the Supreme Court.

The protection of individuals' privacy is regulated by Law No. 19.628 of 1999 on the Protection of Privacy and its subsequent amendments, whose purpose is to provide adequate protection against potential unlawful intrusions.

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Consumer Protection

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11 Consumer Protection

1. Regulatory Framework

National legislation on the protection of consumer rights is mainly contained in Law 19.496, which regulates the relationship between consumers and suppliers.

2. Institutional Structure

a. National Consumer Service (SERNAC):

SERNAC is the State entity responsible for providing guidance and information to consumers regarding their rights, mediating between consumers and merchants/suppliers, and overseeing and penalizing any infringement by merchants/suppliers regarding their legal obligations.

b. Consumer Associations:

These are organizations formed by individuals or legal entities, with no relation to any economic, commercial or political interest, whose objective is to protect, inform and educate consumers, and to represent and defend their members and consumers who request it, before the pertinent administrative authorities and the courts of justice.

3. Rights and Duties of Consumers and Merchants/ Suppliers

As defined by law, consumers or users are individuals or legal entities who by virtue of any legal transaction, acquire, use, or enjoy as final recipients, certain goods or services.

Likewise, the law defines merchants/suppliers as 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.

Individuals holding a professional title or degree who conduct independent activities in their field of expertise are not considered to be merchants/suppliers.

a. Consumer Rights:

By law, consumers have the right to:

- Freely choose a good or service.
- Receive truthful, timely, sufficient, and appropriate information about the goods and services offered.
- Not be arbitrarily discriminated against by merchants/suppliers.

- Unilaterally terminate the contract within ten days of receiving the product or contracting a service. This right only applies in cases regarding the purchase of goods or contracting of services carried out in meetings called for this purpose by the supplier, in which consumers must express their acceptance within the same day, or in contracts signed by electronic means or any form of remote communication.
- Choose between the repair of the good at no cost or, before restitution, its replacement or refund of the amount paid, notwithstanding any compensation for damages caused. This right may be exercised in the event of product failure within six months of purchase or receipt.

b. Consumer Duties:

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 merchants/suppliers.
- Read the relevant advertising.

c. Merchant/Supplier Obligations:

The legal obligations of merchants/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 main mechanisms in place to protect consumers are:

a. Oversight by SERNAC:

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

In this regard, SERNAC may subpoena the legal representatives, administrators, advisors, and employees of the merchants/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.

b. Voluntary Collective Procedures:

The purpose of this procedure is to obtain an expeditious, complete, and transparent solution when the collective or general interests of consumers are affected.

It may be initiated by a SERNAC resolution, at the request of the supplier, or by virtue of a well-founded complaint from a consumer association. The maximum duration of the procedure will be three months, which may be extended once for up to three additional months.

c. Class Action Lawsuits:

Class action lawsuits are the legal mechanism for protecting consumer rights in cases in which a company has affected many people, under a single lawsuit that pursues a company's liability for violation of the rights of a group of consumers.

This type of legal action may be initiated by SERNAC, a legally incorporated Consumer Association, or a group of consumers that involves no less than 50 affected parties.

d. Individual Claims and Complaints:

If a company has affected a consumer's rights, they may report the company or take it to court and request compensation for damages and other penalties.

e. Collective Mediation:

Collective mediation is a preliminary tool that aims to voluntarily resolve a collective consumer issue for the benefit of all affected parties.

As this is a voluntary procedure, the merchant/supplier may refuse to take part, in which case SERNAC will adopt the pertinent measures provided by law.

If SERNAC considers that the solution proposed by the merchant/supplier 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.

f. Complaints:

Consumers can file a complaint with SERNAC against companies that may have violated their rights.

5. Penalties

Current legislation establishes different penalties for merchants/suppliers who violate consumer protection regulations, including:

- Fines of up to 300 UTM if no other penalty is established for the violation.
- Fines of up to 1,500 UTM if the infraction refers to false advertising disseminated on social media, if these refer to essential elements of the good or service.
- The fine may be up to 2,250 UTM if this affects the health or safety of the population or the environment.

The foregoing is notwithstanding any indemnities that may be determined by the competent judge in accordance with the law applicable to the issue.

6. Financial Consumer Protection

Financial consumer protection extends to all financial products and services, such as consumer loans, mortgage loans, credit cards, and credit lines. These products or services may be provided by banks and financial institutions, as well as commercial establishments, insurance companies, benefit funds, savings and credit cooperatives, or other credit or insurance service providers.

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.
- Have previous knowledge of the conditions required by the merchant/supplier to access credit or other financial operations.
- Notification in writing of the reasons for the refusal to reach an agreement for the financial service, which must be based on objective conditions.
- The timely release of bonds constituted to ensure compliance with obligations, once these have been extinguished.
- Know the total liquidation of the credit, at its sole request.
- Other rights established in consumer rights laws, especially those set forth in Law 18.010, which establishes rules for credit operations and other financial obligations.

Likewise, the law establishes various penalties for violating

If a company has affected a consumer's rights, they may report the company or take it to court and request compensation for damages and other penalties.

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Money Laundering Prevention

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12 Prevention of Money Laundering, Terrorism Financing, and Crimes by Officials

1. Regulatory Framework and Institutional Structure

Since the early 2000s, Chile has been developing mechanisms and procedures for the installation of a culture of behavior centered on ethical, proven, and transparent conduct that has an impact on the daily actions of its community. This has led to the creation of a solid regulatory framework, whose main objective is to protect the country, its democracy, and its economy from distortions generated by the crimes of money and asset laundering (AL), terrorism financing (TF) and crimes by officials (CO). This regulatory framework is made up of:

- Law No. 19.913 (2003), which created the Financial Analysis Unit (UAF in Spanish) and amended several articles on money and asset laundering.
- Law 19.880 (2003), which establishes the terms and conditions for administrative procedures governing the actions of State organisms.
- Law 19.886 (2003) on administrative contracts for supplies and services.
- Law 20.285 (2008) on access to public information.
- Law 20.730 (2014), which regulates lobbying and activities on behalf of private interests with authorities and State administration officials.

a. Financial Analysis Unit

The Financial Analysis Unit (UAF in Spanish) was created under Law 19.913 (2003) 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 to protect the country and its economy from the distortions generated by both 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 (GAFILAT in Spanish) regarding Chile, and the guidelines of the Egmont Group of Financial Intelligence Units.

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

UAF Institutional Mission

Prevent and detect money laundering and terrorism financing in Chile through financial intelligence, risk-based oversight, public information dissemination, and institutional cooperation (with public and private entities in Chile and abroad), to protect the country and its economy from the distortions generated by criminal activity.

The UAF has defined 4 pillars to prevent Money Laundering and Terrorism Financing (ML/TF):

– Financial Intelligence: to detect signs of ML/TF, individuals and legal entities indicated in Article 3 of Law 19.913 are required to report to the UAF regarding any suspicious transactions they detect in the exercise of their activities/functions, through a Suspicious Transaction Report (STR). The UAF applies financial intelligence processes to all STRs it receives, cross-checking the information with various sources and databases. If after analyzing the STRs, the UAF detects signs of ML/TF, it confidentially and promptly sends a Financial Intelligence Report to the Public Prosecutor's Office, the only institution responsible for investigating and criminally prosecuting both crimes in the country.

- Overseeing Compliance with Anti-ML/TF Regulations: The UAF may verify the effective compliance of entities regulated by the private sector with anti-ML/TF regulations at any time. To this end, it plans and implements oversight processes using a follow-up criterion for reporting entities, in accordance with the ML/TF crime risks identified for the pertinent activities. When it detects non-compliance with Law 19.913 or with UAF Circulars, it initiates administrative penalty processes that may result in warnings and fines for the benefit of tax authorities.

- Dissemination, Training: The UAF develops training activities and public information to provide reporting entities with the tools they need to prevent and detect suspicious ML/TF operations. It also disseminates information of interest to members of the National Anti-Money Laundering and Terrorism Financing System, the public, and relevant audiences.

- Interinstitutional Cooperation for the Fluid Exchange of Information and Increased Collaboration: To fulfill its legal mission, the UAF can exchange information with its foreign counterparts (through the Egmont Network) and with national and international entities (via Cooperation Agreements and Memoranda of Understanding). It also provides ongoing technical assistance to its counterparts.

2. Entities involved in Chile in the National Anti-Money Laundering System (ALA in Spanish) and Terrorism Financing Control (CFT in Spanish).

The Central Bank of Chile, National Financial Market Commission, Interior and Public Security Ministry, Ministry of Finance, Internal Revenue Service, National Customs Service, Superintendencies, Police, Public Prosecutor's Office, and the Judiciary, among others.

3. ML/TF/CO Concepts

Money Laundering: Activities that aim to conceal or disguise the illicit origin of certain assets, in the knowledge that they come directly or indirectly from illegitimate activities.

Whoever acquires, possesses, has, or uses the aforementioned goods, with a profit motive, when aware of their illicit origin upon receiving them.

Money Laundering Base or Precedent Offense: Illegitimate activities that give rise to illicit funds that are intended to be integrated into the economy under the appearance of legality.

There is no money laundering offense without a base or precedent offense.

Terrorism Financing: Economic action involving aid or mediation to provide financial support to terrorist organizations.

Crimes Related to Public Officials or Corruption: Illegitimate conduct committed by public officials in the exercise of their functions, both institutional and personal, and those that affect State assets. These may be active or passive crimes.

It is important to note that not all crimes committed by officials are base or precedent offenses for money laundering.

Types of Crimes Related to Public Officials or Corruption:

– Bribery: Receiving money in the exercise of an activity directly related to the public role. Known in Spanish as ***soborno***, ***cohecho*** or ***coima***. It is committed by anyone who in their capacity as a public official, offers, requests, or accepts money in exchange for performing or failing to perform an action that is part of their duties. The crime of bribery is considered to be committed even if the money was received for actions that were not performed.

– Bribery of a Foreign Public Official:. This offense is committed by those who offer, promise, or give a financial or other benefit to a foreign public official for the benefit of the official or a third party, for the purpose of having the official perform or fail to perform an action to obtain or maintain a business or provide an undue advantage in an international transaction.

– Prevarication: Crime committed by a judge, authority, or public official who issues an arbitrary sentence or resolution on an administrative or judicial matter, knowing that such sentence or resolution is unjust or unlawful.

- Embezzlement of Public Funds: When fiscal resources of any kind are used for a purpose other than that for which they were allocated.

– **Fraud and Illegal Levies:**. These include tax fraud, negotiations incompatible with the exercise of public functions, influence peddling committed by authorities or public officials who use their position to obtain economic benefits for themselves or for third parties, and illegal levies, consisting of unjustly demanding the payment of benefits, fines, or debts.

Beneficial Owner: For the purposes of applying anti-money laundering and anti-terrorism financing regulations in Chile, 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 decision-making process of the legal entity or structure.

The beneficial owner is the individual who ultimately owns, controls, or benefits from a legal entity or financial transaction. In other words, this is the person who has ultimate control over a company, organization, or transaction, and who will benefit from its financial or economic activities. Establishing the beneficial owner is important because it determines the real people behind legal entities or financial transactions, which helps prevent tax evasion, money laundering, and other illegal activities that can be hidden behind shell companies or complex financial transactions.

Suspicious Transactions: Any act, operation, or transaction that, according to the uses and customs of the activity in question, is unusual or lacks apparent economic or legal justification, whether performed on an isolated or repeated basis.

Suspicious Transactions Report (STR): This is the report that every compliance officer or public official responsible for the individuals or legal entities described in Article 3 of Law 19.913 must send to the Financial Analysis Unit (UAF) when, in the course of their activity or duties, they detect a suspicious operation regarding money laundering or terrorism financing, which must be reported to that service.

Responsible Public Official: This person is responsible for liaising with the Financial Analysis Unit, reporting suspicious transactions, and coordinating policies and procedures for the prevention and detection of money laundering, crimes by public officials, and terrorism financing in public institutions.

4. Violations and Penalties

Articles 19 and 20 of Law 19.913 regulate financial crimes and their respective penalties applicable to individuals and legal entities overseen by the UAF that fail to act in compliance with their legal obligations:

- **Minor Violations and Penalties:** These correspond to violations of instructions issued by the Financial Analysis Unit in memos known as circulars. The applicable penalties range from a warning to a fine of up to UF 800.
- **Mid-level Violations and Penalties:** These correspond to violations of obligations related to the Reporting of Cash Operations and record keeping as detailed in Articles 4 and 5, respectively, of Law 19.913. The applicable penalty ranges from a warning up to a fine of UF 3,000.
- **Serious Violations and Penalties:** These correspond to violations of the legal obligation to provide information and/or submit Suspicious Transaction Reports, in accordance with the provisions of Article 2, b and Article 3 of Law 19.913. The applicable penalty ranges from a warning up to a fine of UF 5,000.

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 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 (individuals or legal structures), 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.

6. 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.

In our country, at least the following persons are qualified as PEPs:

- President of Chile.
- Senators, deputies and mayors.
- Ministers of the Supreme Court and Courts of Appeals.

- Ministers of State, undersecretaries, intendants, governors, ministerial regional secretaries, ambassadors, senior service chiefs, both centralized and decentralized, and the immediate senior manager who must deputize for each of them.
- Commanders-in-Chief of the Armed Forces, Director General of the Police Force, Director General of Investigations, and the immediate superior officer who is to deputize for each of them.
- National Prosecutor of the Public Prosecutor's Office and regional prosecutors.
- Chilean Comptroller.
- Economic Advisors from the Central Bank of Chile.
- Advisors of the State Defense Council.
- Ministers of the Constitutional Court.
- Ministers of the Court of Free Competition.
- Regular and alternate members of the Public Procurement Tribunal.
- Advisors of the Senior Public Management Council.
- Directors and chief executives of public companies, as defined by Law 18.045.
- Directors of corporations appointed by the State or its agencies.
- Members of boards of directors of political parties.

With respect to these persons, the entities supervised by the UAF must implement and execute due diligence and know their customer practices. Among these:

- 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 pre-exists 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.

See: www.uaf.cl

Since the early 2000s, Chile has been developing mechanisms and procedures for the installation of a culture centered on ethical, proven, and transparent conduct that has an impact on the daily performance of its community.

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Free Competition

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13 Free Competition

1. Regulatory Framework

Free competition is regulated in Chile by Decree Law (DL) No. 211 of 1974, which is intended to promote and defend free competition in economic activities.

2. Institutional Structure

a. National Economic Prosecutor's Office (FNE in Spanish)

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.

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

b. Court for the Defense of Free Competition (TDLC in Spanish)

The TDLC is a special independent court established for the purpose of preventing, correcting, and penalizing violations of free competition regulations within national territory, in accordance with the terms of the cited DL No. 211.

Further information is available at: www.tdlc.cl

c. Supreme Court

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

3. Anti-competitive Conduct

According to the aforementioned DL No. 211, the following, among other aspects, are considered as events, actions, or conventions that prevent, restrict, or hinder free competition or tend to produce such effects:

- **Anti-competitive agreements:** agreements between different market participants intended to lessen market competition. For example: collusion, resale price fixing, and exclusivity agreements.
- **Abuse of dominant position:** abusive exploitation by an economic agent, or a group of them, of a dominant position in the market. For example, fixing purchase or sale prices, imposing on one sale the sale of another product, allocating market zones or quotas, or imposing similar abuses on others.
- **Unfair competition:** conduct carried out for the purpose of achieving, maintaining, or increasing a dominant position. For example, damaging the reputation of another market participant.

- **Interlocking:** link between two competing companies, which occurs when they directly or indirectly share people in their relevant executive positions or in their board of directors. In Chilean legislation, the most direct penalty is applied when the same person holds such positions in two competing companies.

4. Penalties

If any situation arises that constitutes an infringement of the rules contained in the aforementioned DL No. 211, the Court for the Defense of Free Competition may adopt any of the following measures in its final judgment:

- 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 No. 211;
- Application of fines for tax benefits. In determining the fines, the court will consider the following factors, among others: economic benefit, seriousness of the conduct, deterrent effect, recidivism, economic capacity of the offender, and the collaboration provided before or during the investigation.

DL No. 211 also establishes the possibility of imprisonment for "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."

However, those individuals who have first provided the National Economic Prosecutor's Office with background information leading to the accreditation of the infringement and the determination of those responsible shall be exempt from criminal liability.

Free competition is regulated in Chile by Decree Law (DL) No. 211 of 1974, which is intended to promote and defend free competition in economic activities.

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Public Concession System

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14 Public Concession System

The Chilean Concession System has been a pioneer in aspects related to environmental management and planning, forging a path for the sustainable development of infrastructure in Chile. In its 30 years of operation, this mechanism has awarded more than 100 projects for more than US$28 billion.

1. Regulatory Framework

Concessions in Chile 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). Its institutional development is bolstered by an additional set of regulations relevant to the security of foreign investment and capital movements, such as the Framework Law for Foreign Direct Investment in Chile (20.848), the investment chapters in the free trade agreements, the Organic Law of the Central Bank of Chile and Chile's adherence to the OECD Code of Liberalisation of Capital Movements.

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) was created under Law No. 21.044 of 2017 to strengthen the concessions system. It is the public service responsible for managing national public infrastructure works, within the framework of public-private partnerships.

Its functions include:

- 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; and
- Studying private concession projects submitted by individuals.

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.

The Concessions Council has a decision-making function on the recommendation of Public Interest in the case of private initiatives.

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 Contract

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 State-owned 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

These 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, hospital infrastructure, and sustainable transportation systems, among others.

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. In Chile, the law requires the re-tender of a concession.

For example, this category includes interurban and urban road concessions, airport concessions and water solutions.

c. Concessions for Operation

These are works that have already been built 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.

At this stage, there may be contract modifications that allow for the development of new works, since in a long-term operation there may be a need to expand infrastructure or install new elements.

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, water infrastructure, 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.

Law 21.044 mandates the General Concessions Directorate to prepare a 5-year plan, with a territorial vision. For this, its projects will contemplate infrastructure in different areas of the country, seeking a harmonious development among them.

7. Concession Projects Schedule

The 2024-2028 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:

- **Better Cities:** this refers to sustainable transportation and public building projects. It refers to works that improve public transportation such as trams, cable cars, trains, and to public buildings such as hospitals, among others.
- **Airport Connectivity:** This refers to the structure of an airport network that includes new airport and airfield concessions.
- **Infrastructure for Water Safety:** this refers to the development of reservoirs and other works that will improve water resource use.
- **Route 5 and East-West Routes:** This refers to projects involving Route 5 (Chile's principal north-south highway) and connectivity throughout the country.

A concession portfolio is created after the project evaluation, structuring, and prioritization process, which may include public or private initiatives.

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Immigration Regulations

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15 Imigration Regulations

In April 2021, Law No. 21.325 on Migration and Immigration was enacted, which establishes new migration regulations and replaces the Department of Immigration and Migration (DEM in Spanish) with the National Migration Service (SERMIG in Spanish).

Migration in Chile is subject to Law No. 21.325, which establishes the migration institutional framework; its regulations, Decree No. 296; and Supreme Decree No. 177, which establishes the migration subcategories for temporary residence. All of these regulations emanate from the Interior and Public Security Ministry. For foreign companies, exempt resolution No. 144 of the Foreign Investment Promotion Agency (InvestChile) is also relevant, which establishes the information required for the sponsorship letter associated with the permit for the investor and related personnel.

1. Migration Categories

Pursuant to Article 37 of the Migration Law, the National Migration Service (SERMIG) is responsible for granting, extending, and revoking permanent and temporary residence permits, with the exception of those corresponding to official residents, which are the responsibility of the Ministry of Foreign Affairs.

In Chile, the following migration categories exist:

Temporary Residence: Temporary residence is a permit granted to foreigners who intend to settle in Chile for a limited period of time and will be valid for up to 2 years, except for the subcategory of seasonal workers. This category has subcategories that will be described later in this guide.

Permanent Residence: Permanent residence is the permit granted to foreigners who already have a temporary residence, which enables them to reside indefinitely and develop any lawful activity in the country.

Transitory Tourist Permit: A transitory tourist permit is granted to foreigners who enter the country for tourism, business or other reasons, for a limited period of time, without the intention of residing or settling in the country. The permit authorizes a 90-day stay in the country, which may be extended for an additional 90 days only once. Individuals must prove that they have sufficient financial means to support their stay in the country.

This permit has subcategories, which include: people entering for tourism, business or other similar purposes; crew members of international passenger and cargo transportation; people covered by international treaties; foreign inhabitants of border areas; and official residents who finalize their missions.

For more details on this migration subcategory, consult the Migration Service website. www.sermig.cl

Official Residence: Permit granted by the Ministry of Foreign Affairs to foreigners on official mission recognized by Chile, as well as their dependents.

2. Subcategories of Temporary Residence

To regulate this migration category, Article 10 of Supreme Decree No. 177 establishes the following subcategories:

1. **Family Reunification:** For people who can prove that they have a relationship with a Chilean or foreigner who holds a permanent residence permit.
2. **People engaged in remunerated lawful activities:** For foreigners who wish to develop remunerated activities with an employment contract in Chile.
3. **Students from Recognized Establishments:** For foreigners interested in studying in educational institutions recognized by the State.
4. **Seasonal Workers:** For foreigners who intend to perform specific seasonal jobs for limited, one-time, or inter-annual periods in Chile.
5. **People in Prison Custody in Chile:** For foreigners under the administration, control, and surveillance of the Chilean prison system.
6. **People in Chile by Court Order:** For foreigners who are in or must move to Chile by order of the Chilean Courts of Justice.
7. **Humanitarian Reasons:** For foreigners who are victims of some type of violence or vulnerability, among other reasons.
8. **People under International Agreements:** For foreigners residing in any of the States party to international agreements signed by Chile and currently in force.
9. **People of Faith from Recognized Religions:** For foreigners who belong to a religious organization legally constituted in Chile and who need to reside in Chile for the exercise of their religion.
10. **People Undergoing Medical Treatment:** For foreigners undergoing medical treatment that must be initiated or continued in Chile.
11. **Retirees or Pensioners:** For foreigners who have obtained a retirement pension or who have constant income derived from the exploitation of real estate or financial assets.
12. **Former Holders of a Permanent Residence Permit:** For foreigners who have a permanent residence that has been revoked.

13. **Investors and Related Personnel:** For foreign individuals, legal representatives, or those who perform senior management functions in a foreign company, who seek to invest in Chile for an amount equal to or greater than five hundred thousand United States dollars or its equivalent in other currencies, provided that such investment is for the production of goods or services. This permit may also be requested by foreigners performing managerial or senior management functions and specialized technical personnel hired as employees or to render services in a Chilean company whose capital or assets are controlled directly or indirectly by a foreign investor controlling at least 10% of the company.
14. **People who Manage Multiple-Entry Businesses:** For foreigners who must enter the country on a regular basis to carry out executive or managerial activities related to business or investments.
15. **International Reciprocity Principle (Mercosur):** For those who are granted temporary residence under the Agreement of the Mercosur States, Bolivia and Chile.

Note: This guide will develop the subcategory regulated in Article 62 of Decree No. 177 of 2022, which regulates the permit for investors and related personnel. For the rest of the subcategories, details and requirements can be consulted on the Migration Service website: www.sermig.cl.

3. Investors and Related Personnel Migration Subcategory

Foreign nationals who meet these requirements may apply for this temporary residence permit:

- Legal representatives and individuals who perform management or senior management functions in a foreign company, who seek to invest in Chile for an amount equal to or greater than five hundred thousand United States dollars or its equivalent in other currencies, provided that such investment is for the production of goods or services.
- People performing managerial or senior management functions, as well as specialized technical personnel hired as employees or to render services in a company established in Chile, whose capital or assets are controlled directly or indirectly by a foreign investor who holds at least 10% of the voting rights of the shares of the company, or an equivalent percentage interest in the share capital—if it is not a joint stock company—or in company assets.

This investor and related personnel permit can be requested through the SERMIG platform (serviciomigraciones.cl), from abroad, attaching:

- Passport or identification document.
- Criminal record certificate or equivalent document issued by the competent authority in their country of origin or country of residence for the last 5 years (when of legal age).
- Sponsorship letter issued by the Foreign Investment Promotion Agency (InvestChile). This letter can be requested on the Agency's website (https://tools.investchile.gob.cl/carta-patrocinio) and must be attached and comply with the requirements explained below in this guide.
- Document stating the details of the investment, indicating at least the purpose of the investment and the amount, and the nature of the functions as appropriate.

Finally, this permit may be extended. To do so, the following information must be submitted on the SERMIG platform:

- Electronic tax folder corresponding to the respective company or partnership.
- Proof of payment of the municipal patent corresponding to the period in which the application is being verified, if applicable.
- Documents that show the existing contractual relationship between the company and the applicant, which also accredit the existence of an associated income, duly apostilled or legalized as appropriate.

Access to the platform to apply for this temporary residence permit can be found on the Migration Service website (www.sermig.cl) under the temporary residences link.

Access to the requirements and information for requesting a sponsorship letter from the Foreign Investment Promotion Agency can be found on the InvestChile website, www.investchile.cl.

3.1 Sponsorship Letter Issued by the Foreign Investment Promotion Agency

The Foreign Investment Promotion Agency is in charge of granting the Letter of Sponsorship. Under Exempt Resolution No. 144 of 2022, it established the information to be submitted and accompanied by the interested party in its application for the Letter of Sponsorship. This instrument constitutes information that the interested party must submit to SERMIG to process the permit established in the subcategory of Investors and related personnel. This document will be issued by InvestChile (Foreign Investment Promotion Agency), at the request of the interested party, whose investment meets the prioritization criteria contained in the Foreign Investment Promotion Strategy in effect at

the time the request is made and complies with the other requirements established for the subcategory.

Requests and granting of letters of sponsorship constitutes a procedure for the sole purpose of obtaining the residence permit cited in the preceding paragraph, and does not grant the interested party any other rights. Likewise, it does not constitute a qualification as a foreign investor for the purposes of qualifying for access to the regime established in Law 20.848 or the international agreements signed and ratified by Chile.

The letter is valid for 60 days from the date of issuance by the Agency.

The regulation of the sponsorship letter is contained in Exempt Resolution No. 144 of 2022 of the Foreign Investment Promotion Agency, which establishes the information to be submitted and accompanied by the interested party, specifically:

a. Interested Party Defined in the Sponsorship Letter.

InvestChile considers the following to be interested parties:

1. Foreign individual seeking to invest in Chile.
2. Legal entity incorporated abroad seeking to invest in Chile.
3. Legal entity incorporated in Chile receiving foreign capital whose capital or equity is directly or indirectly controlled by a foreign investor holding at least 10% of the voting rights of the company's shares or an equivalent percentage of participation in the company's share capital or equity, as applicable.
4. Legal entity incorporated abroad with an interest in a legal entity incorporated in Chile.

b. The Beneficiary of the Letter

A foreign individual whose entry into the country is requested by the interested party, who may be in one of the following categories.

1. Foreign individuals who perform or will perform managerial or senior management functions.
2. Specialized technical personnel.

In the letter of sponsorship application, each beneficiary whose admission is requested will be specified by name, indicating at least: first and last names, passport number, nationality, address, email and telephone number.

If the foreign individual whose admission is being sponsored is the legal representative of the foreign company, the interested party must accompany the corresponding power of attorney, in Spanish or English, duly legalized or apostilled.

For a foreign individual who performs or will perform managerial or senior management functions, the interested party must attach the bylaws or powers stating the assignment and nature of the managerial or senior management functions of the beneficiary.

In the case of "specialized technical personnel", the following documents must be attached: curriculum vitae, employment or service contract, as applicable, professional or technical degree or certifications (e.g., diplomas and postgraduate degrees), or proof of technical experience.

c. Mentions to be Included in the Sponsorship Letter.

The mentions reported in the respective form on the Agency website depend on the party interested in obtaining the letter, namely:

1. Interested Foreign Individual Seeking to Invest in Chile: This individual must submit their application indicating at least the following information: their first and last name(s), passport number, nationality, address, e-mail and telephone number. This interested party may appear before InvestChile personally or duly represented, in which case they must provide all the information necessary for the adequate identification of their representative, among others, their first and last name(s), passport or identity card number, nationality, address, e-mail and telephone number, also indicating the date and place that the powers of representation were granted.

This interested party must submit the following information in the Agency platform:

- A copy of their passport and/or their representative's passport;
- A document in their name, validly issued by a third party, public or private, that reasonably demonstrates ownership of capital or equity equal to or greater than US$500,000 (five hundred thousand United States dollars) or its equivalent in other freely convertible currencies.
- If the request is made by a third party on behalf of the foreign individual, it must be accompanied by the powers of attorney to represent them before the Agency.

2. Interested Legal Entity Incorporated Abroad Seeking to Invest in Chile: This party must submit its application indicating at least the following information: corporate name, tax identification number, corporate purpose or economic line of business, country where its main office is located, telephone, e-mail, economic sector in which it intends to invest in Chile. In addition, it should include the identification of its representative, specifically their first and last name(s), passport or identity card number, nationality, address, e-mail and telephone number. It should also include the first and last name(s), passport number, nationality, profession or trade, address, e-mail and telephone number(s) of the foreign individual(s) for whom the entity is requesting the Letter of Sponsorship from InvestChile (beneficial owners).

This interested party must submit the following information in the Agency platform:

- Bylaws of the foreign company.
- Certificate of good standing of the foreign company, duly apostilled or legalized, as applicable.
- Audited balance sheets or financial statements corresponding to the last fiscal year and/or any other record that reasonably demonstrates ownership of capital or equity equal to or greater than US$500,000 (five hundred thousand United States dollars) or its equivalent in other freely convertible currencies.

3. Interested Legal Entity Incorporated in Chile Receiving Foreign Capital: For applications from legal entities incorporated in Chile, whose capital or equity is directly or indirectly controlled by a foreign individual or a legal entity incorporated abroad that holds at least 10% of the voting rights of the company's shares, or an equivalent percentage of participation in the share capital if it is not a joint stock company or in the company's equity, these must contain the following information:

Company name, tax identification number (RUT), economic activity or purpose, address, telephone, e-mail, indication of the percentage of voting rights of the company's shares or participation of the foreign individual or legal entity incorporated abroad in the Chilean company's share capital or equity, country of the main office of the major foreign investor, and complete identification of the legal representative of the Chilean company (name, address, e-mail, telephone).

It should also include the first and last name(s), passport number, nationality, profession or trade, address, e-mail and telephone numbers of the foreign individuals for whom the entity is requesting the Letter of Sponsorship from InvestChile (beneficial owners).

The following must be attached on the Agency website platform:

- Certificate issued by the Central Bank of Chile stating the date and amount of capital transferred to the country.
- Copy of the articles of incorporation and/or capital increase of the company incorporated in Chile that shows the participation of foreign capital in the Chilean company, and
- Copy of the registration of the legal entity incorporated in Chile with effect in the Commercial Registry of the Santiago Real Estate Registrar (Conservador de Bienes Raíces), with the corresponding margin annotations.

4. Interested Legal Entity Incorporated Abroad with an Interest in a Legal Entity Incorporated in Chile. For applications from legal entities incorporated abroad that hold at least 10% of the voting rights of the shares or an equivalent percentage of participation in the share capital, if not a joint stock company, or in the equity of a legal entity incorporated in Chile, these must contain the following information:

Company name, tax identification number, economic activity or purpose, address, telephone, e-mail, indication of the percentage of participation of the foreign individual or legal entity incorporated abroad in the social capital, country of the main office of the major foreign investor, and complete identification of the legal representative of the legal entity incorporated abroad (name, address, e-mail, telephone).

The following must be attached on the Agency website platform:

- Certificate issued by the Central Bank of Chile stating the date and amount of capital transferred to the country.
- Copy of the articles of incorporation and/or capital increase of the company incorporated in Chile that shows the foreign capital.
- Copy of the registration of the company incorporated in Chile with effect in the Commercial Registry of the Santiago Real Estate Registrar (Conservador de Bienes Raíces), with the corresponding margin annotations.
- Copy of the bylaws of the partner or shareholder legal entity incorporated abroad, and
- Certificate of good standing of the legal entity incorporated abroad, duly apostilled or legalized.

d. Description of the Investment Made or To Be Made.

The interested party in the letter of sponsorship must attach a document that describes at least the following aspects of the investment already made or to be made:

- Amount, activity, brief description of the investment project or of the investment already made in the country, and the employment generated or potential employment to be generated in Chile.

e. Management of Requests.

If the interested party has not adequately completed the information or has not accompanied the documentation required in this resolution, this circumstance will be communicated to the e-mail address indicated when filing the application, so that the omitted information may be corrected or attached.

Documents submitted by interested parties to InvestChile must be attached in PDF format. If in a language other than Spanish or English, a translation must be provided.

f. Relationship Between InvestChile and the National Migration Service (SERMIG). Management of Letters Granted.

There is a Collaboration and Coordination Agreement between the National Migration Service (SERMIG) and InvestChile, which expedites the processing and resolution of applications submitted to SERMIG by foreigners sponsored by InvestChile, within the framework of contributing to the attraction of advanced human capital of foreigners, generating regular conditions to strengthen investment and productivity in the country. This agreement enables InvestChile to access an information mechanism on the progress or status of timely processing directed to foreigners who have applied and have been granted the Letter of Sponsorship, as well as foreigners who have applied for residency under other migration subcategories, which fall under the same criteria mentioned above.

In the event that the interested party has received the Letter of Sponsorship granted by InvestChile, they must attach it to their application for Temporary Residence for Investors and Related Personnel, together with the other documents required for the implementation of this procedure. After entering the residence application in the SERMIG portal, the interested party may contact InvestChile to request its prioritization, which is carried out directly by the Agency in conjunction with the National Migration Service.

Likewise, if the foreign investor has applications for temporary residence under a migration subcategory other than that of investor and requires information on the status of progress or processing, they may also contact InvestChile to request support.

The foreign investor may also consult on Temporary Residence cases if it requires information regarding their progress or status.

InvestChile only issues sponsorship letters. The approval or denial of a temporary residence permit, regardless of the migration subcategory, falls exclusively to the National Migration Service.

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InvestChile

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2026

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