



Doing Business in Chile

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MSI's guide on *Doing Business in Chile* provides current information about the financial, regulatory and legal considerations that could affect business dealings within Chile. For further assistance please contact our MSI member firm in Chile.

Country overview

Population

Chile has a total population of 19,9 million inhabitants (2022).

Government

The Chilean Government is a representative democratic republic, unitary and presidential government.

The President is both the head of state and the head of government. In addition, the National Congress is divided into the Chamber of Deputies and the Senate. This branch of government carries out legislative power and shares executive power with the President. A separate judiciary branch carries out matters of legal concern.

The presidential term is 4 years with no immediate re-election. Chile has 16 regions, each with its own local authorities.

Languages

The national language is Spanish. However, a considerable amount of people speaks English especially in the capital.

Natural resources

Copper, gold, fishing resources, forestry resources, iodine, lithium, salmon, fruit, among others.

Currency

The national currency is the Chilean Peso.

Economic summary (*)

GDP: USD\$ 568 million

Income per capita: USD\$ 28,533

Inflation: 4,5% (2021)

(*) World economic database IMF

Main sectors of the economy

Chile has built its recent economic success on the exportation of raw materials, most notably copper. Indeed, mining is Chile's biggest economic sector, agriculture and forestry are also key industries.

The company Codelco-Chile is the most important state-owned company, is the world's largest copper producer with an estimated 200 years of copper reserves.

With the opening of European and Asian markets, the export of forestry products, vegetables, fruit, fishmeal and fish, most notably salmon have increased significantly. Chile has also become a leading wine-producing country.

Other areas of opportunity and expansion include tourism. Chile, especially its adventure tourism sub-sector, has benefited from the recent boom in global tourism. This services sector has enormous potential for future development.

Economic Situation

The Chilean economy is recognized internationally as one of the most stable, open and competitive in Latin America, under the social economic model of prevailing markets.

Since 2010, the country has been a member of the Organisation for Economic Co-operation and Development (OECD).

According to the International Monetary Fund (IMF), in 2026, Chile's per capita GDP will reach US\$30,000, measured in purchasing power parity (PPP), thus

becoming the first country in South America to reach this objective.

This goal, previously estimated for 2022, was delayed for four years due to the pandemic.

In Chile, the Central Bank of Chile is the agency in charge of ensuring low and stable inflation over time. Its structures and its monetary policy within a conceptual framework of targets are used as instruments to ensure that the annual variation of inflation is around 3% annually with a tolerance range of one percentage point.

Chile continues to be the country in the region with the lowest credit risk and the best rating from risk rating agencies.

Although the global situation poses an uncertain scenario for all economies, the country continues to show leadership in terms of payment conditions, with solid legal and political institutions.

Setting up a business

Foreign investors can do business in Chile as individuals or through entities governed by the commercial code and other applicable legal regulations. It should be noted that there are no restrictions regarding the minimum or maximum amount of capital that any type of company may possess.

Our country has also established an attractive legal framework for foreign capital, whose pillars are economic freedom, non-discriminatory and non-discretionary procedures.

Practically all forms of business activity are permitted to the foreign investor.

The government has issued special statutes, in particular the "Foreign Investment Statute", in order to promote foreign investment.

Some minor regional investment incentives are available, granting special benefits to certain regions of the country.

Legal types of business entities

The types of Companies in Chile are the following:

1. Stock Corporations (S.A.)
2. General partnership
3. Limited liability partnership
4. Individual Limited Liability Company
5. Limited partnership
6. Association
7. Company by shares
8. Cooperative
9. Branch or agency of a foreign branch

Process of how to set up a business

Non-resident individuals and companies can operate in Chile in one of the following ways:

- Appointing a representative.
- Registering an agency or branch of a foreign entity.
- Setting up a company by shares.
- A partnership or a corporation, in which case it is required to have another partner or shareholder.
- An individual limited liability company (only applicable to natural persons).

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

To establish *branches* of foreign companies in Chile, there is no need for formal approval from the government. A legal representative must be established on behalf of the foreign company, who

must legalize certain documents before a Chilean Public Notary. These must be written in the original language and be accompanied by a Spanish translation. The documents are detailed as follows:

- Proof that the company is legally established abroad.
- Certification that the company exists.
- An authentic copy of the company's current bylaws.
- A general power of attorney issued by the company to the legal representative that will represent it in Chile.

This power of attorney must clearly establish that the legal representative acts in Chile under the direct responsibility of the company and with ample powers to be able to act on its behalf.

Likewise, the legal representative must sign a public deed on behalf of the company.

He/she must subsequently register an extract of the deed in the Commercial Registry and publish such extract in the Official Gazette.

Stock Corporations are composed of shareholders that raise common capital. Decisions are adopted through shareholders' meetings and they are managed by a board of directors.

Shareholders: Formed by a minimum of 2 shareholders, with no maximum number of shareholders.

- Types: Stock corporations can be classified as open or closed.

- Open Stock Corporations (S.A.A.): Those that (i) offer their shares to the public, (ii) have more than 500 shareholders, or (iii) 10% of their capital is held by a minimum of 100 shareholders (excluding individual shareholders that exceed such percentage).

- Closed Stock Corporations: All the rest of stock corporations that do not meet the criteria for Open Stock Corporations (S.A.A.).

- Liability: The liability of the shareholders is limited to the amount of their shares.

- Administration: They must have a board of directors, composed of at least three essentially revocable members, that appoint a manager and the chairman of the board.

- Oversight: Open Stock Corporations must register with the Registry of Securities Issuers and are subject to oversight by the Financial Market Commission (CMF). Closed Stock Corporations are not subject to oversight.

- Transfer of shares: There is no legal limitation to the transfer of shares.

- Reserved business: There are certain businesses that are reserved for stock corporations and which are overseen by the CMF or another sectorial Superintendency (banks, insurance companies, public works concessionaries, general funds administrators, etc.).

Joint-stock Corporation (SpA), this is a variation of stock corporations and are governed primarily by their bylaws, and their shareholders have quite a bit of freedom in the establishment of their provisions. In the absence of bylaws or of special standards that govern this type of companies, they are governed by the standards for closed stock corporations.

An *individual limited liability* can acquire the status of a legal entity under the figure of an Individual Limited Liability Company (E.I.R.L.). Equity is limited to what is stated in the deed and the proprietor only responds with their personal property up to the capital contribution to the company and the company responds with all its assets. EIRLs can carry out all types of civil and commercial transactions, except for those reserved by law for Stock Corporations (S.A.).

How to bring foreign capital into Chile

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

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

Bringing loans into the country

Foreign loans do not require prior authorization from the Chilean Central Bank for their entrance into the country.

In order to receive foreign currencies entered into the country, certain information regarding the operations must be submitted to the FEM entity involved, information that the Formal Exchange entity must send to the Chilean Central Bank before the funds are handed over to the debtor.

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

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

Differential exchange rates

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

Formalities

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

- Taxpayer number (RUT).
- Declaration of initiation of activities.

- Municipal license.
- Sectored permits for some businesses, such as: health permits (SNS); environmental permits (SESMA); forestry permits (CONAF); agricultural and livestock permits (SAG); mining permits (SERNAGEOMIN); marine permits (DMM); air navigation permits (DGAC); and telecommunications permits (MTT), among others.

Financial year of taxes and financial accounts

The financial year is equal to the calendar year.

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

Accounting and auditing

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

Companies that operate in duty free zones, where incentives exist must keep separate accounting records for these operations.

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

Independent statutory audits

In general, only certain types of entities are required to appoint independent auditors. Such entities include banks, financial institutions, insurance companies, pension plans, publicly traded corporations, and cooperatives.

Almost all other entities are usually free to appoint auditors or to establish other means of control.

Public availability of financial statements

Certain entities (principally banks, financial institutions, insurance companies, pension plans, and publicly traded corporations) are required to file quarterly and annual financial statements with the appropriate

regulatory agency (Superintendency). These statements are publicly available.

In addition, the annual financial statements filed in the Superintendency and those of an agency or branch of a foreign corporation must be published in a newspaper. Other entities are not required to file financial statements with any Government agency.

Basic financial statements

1. Balance sheet
2. Statement of income
3. Statement of cash flows
4. Statement of equity
5. Notes to the financial statements

Incentives foreign investors/local investors

The best incentive is the opportunity to take advantage of the country's rich natural resources within a stable legal framework and a reasonable tax regime that do not discriminate between local and foreign investors.

There are also several tax concessions, regional incentives and industry incentives generally available to investors.

Tax Incentives, Double Tax Treaties to avoid double taxation and Chile has the largest network of DTT in Latin America, and all DTTs signed by Chile follow the OECD model convention with deviation.

Chile has entered into agreements to avoid double taxation with Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, South Korea, Croatia, Denmark, Ecuador, Spain, France, Ireland, Italy, Japan, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, Czech Republic, Russia, South Africa, Sweden, Switzerland, Thailand and Uruguay.

In addition, there are currently agreements signed but not in force with the United States, the United Arab Emirates, the Netherlands and India. Chile has entered into International treaties.

Chilean law provides special incentives for:

- The oil industry.
- Operations in free trade zones in Chile.
- Operations in Regional Incentives zones.
- Exporters.
- The forestry industry.
- Research and development activities.
- Solar thermal systems.
- Investments in the Araucanía region.
- Instant depreciation of 100% of the value of fixed assets.

Taxation

The administration, inspection and collection of the main taxes are the responsibility of the Internal Revenue Service (SII). Its main responsibilities are to control tax evasion and to collect taxes efficiently.

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

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

The taxes of general application to a business in Chile are the following:

1. Corporate and personal income taxes
2. Value Added Tax or VAT
3. Capital Gain Tax
4. Stamp Tax
5. Municipal business license

VAT

The general VAT rate is 19%.

VAT is levied on sales, services and imports of goods, is mainly applicable to all routine sales of personal property, real estate (either new or used) and certain services.

Income tax

Income taxation in Chile is based on two factors: the taxpayer's place of residence and the source of the income.

Entities resident or domiciled in Chile are taxed upon their worldwide income. As a general rule, non residents are subject to tax only for its Chilean source income, Permanent establishments of non-Chilean resident would be subject to tax only upon their Chilean source income.

The income tax levied on individuals or legal entities without residence or domicile in Chile is called "Additional Tax".

Individuals with domicile or residence in Chile are subject to income tax over all the revenue received by them, without regard to their geographic source. The revenue earned by them as dependent employees is subject to the sole Wage Tax called "Second Category Tax". In all other cases, their income is subject to "Surtax".

First Category Income Tax (capital income) 27%

All resident taxpayers, whether individuals or corporations, are subject to taxes on their total income, wherever earned, with the sole exceptions of foreign individuals who only pay taxes on Chilean source income for their first three years in the country. This period can be extended.

Capital Gain Tax

In general Capital Gains are taxed as normal business income.

In some cases the sales of shares are subject to FCT as a sole tax provided certain requirements are met.

A preferential tax regime is available in case of gain derived from the sale of shares in Stock Exchange provided legal requirement are met.

Capital Gains Tax 0 - 10% - 27% - 35%

Stamp Tax

Stamp Tax is levied on the documents issued in connection with money lending operations, at a fixed percentage over their amount for every month ranging from their issuance and their maturity. The maximum rate of tax applicable is capped at 12 months.

Municipal business license

This license taxes the exercise of any profession, job, industry, trade, art or any other secondary or tertiary lucrative activity.

All of them are subject to a municipal contribution that is paid through the respective municipal license.

The municipal license is calculated based on the net tax equity informed by the business to the tax authorities. The rate to be applied ranges between 0.25% and 0.5% depending on the Municipality.

Withholding taxes

The most common withholding tax is dividend tax with a rate of 35%.

If the recipient of a dividend is a non-resident, dividends will be subject to Additional Tax (a type of withholding tax) at a 35% rate. Any First Category (corporate) Income Tax that has already been paid can be used as tax credit against this Additional Tax, in percentages that vary depending on whether there is an agreement in force to avoid double taxation between Chile and the country where the beneficiary of the dividend is a resident.

HR/ Labour Law

Employment law

The Chilean Labour Code regulates the labour relationship between employee and employer, the employment contract, the different types of contracts, as well as the rights and obligations arising from the labour relationship for both parties.

Article 7 of this code defines the individual employment contract as "an agreement by which the employer and the employee reciprocally commit the latter to render personal services under the dependence and subordination of the former, and the former to pay a determined remuneration for these services."

System applicable to all workers, whether national or foreign.

As for the term, there are three types of employment contracts:

- Open-Ended Contract
- Fixed-Term Contract
- Contract for Works and Services

Social security

Foreign professionals and technicians providing services in Chile may be excluded from contributing to the Chilean social security system (only pension funds and health insurance), provided that they meet the requirements established in Article 1 of Law No. 18,156, i.e., they are members of a foreign social security system that grants benefits similar to those provided in Chile (retirement, disability, illness and death), and that the employee expressly states in the employment contract the willingness to keep their membership abroad. This exemption does not include payments for work-related accidents and occupational diseases, and unemployment insurance.

It is important to mention that Chile has effective International Social Security Agreements with several countries: Germany, Argentina, Australia, Austria, Belgium, Brazil, Canada, Colombia, Denmark, Ecuador, Spain, United States, Finland, France, Holland, Luxembourg, Norway, Paraguay, Peru, Portugal, Quebec, United Kingdom, Czech

Republic, Republic of Korea, Sweden, Switzerland, Uruguay, in addition to the existence of an Ibero-American Multilateral Agreement.

Pension

Employees who join the labour force have been required to contribute to the private system administered by pension fund administrators ("AFPs", as per its acronym in Spanish) under an individual capitalization scheme.

Employees' contributions to private pension funds are withheld from monthly compensation at a fixed percentage and based on a monthly remuneration.

The age the pension starts varies depending on the future mortality rates, but will be 65 years for men and 60 years for women.

Payroll

When starting a business and employing staff, the company must register with the tax authorities.

Wage Tax called "Second Category Tax" and social security is paid monthly to the tax authorities.

Hours worked

The normal working week is limited to 45 hours. Offices and banks normally operate Monday through Friday. In general, a minimum break of 30 minutes must be allowed in the middle of the day. Such period is not considered as worked time, and therefore is not added to the working week. If working conditions require continuity of labour, a shift system may be established with the approval of the Labour authorities. The normal working period may be extended by mutual written agreement to a maximum of two hours more a day, provided such an extension is not detrimental to the health of the worker.

Visa and work permits

Citizens from some countries must obtain a visa before entering the country. In the case of certain South American countries such as Argentina or Brazil an identity card is sufficient. This matter is based on reciprocity. A work

permit is required to perform any kind of remunerated activity in the country.

Immigration regulations

Regarding immigration matters, it is necessary to consider that Chile approved a new immigration law, which will be effective within the next few years once it is published as a law and a new regulation is issued by the Authority.

Unemployment Insurance

Unemployment Insurance is jointly financed by the worker (the employer must withhold this contribution), the employer and the government. In the case of open-ended employment contracts, these contributions consist of:

- Employee: 0.6% of the gross wage, with a ceiling of UF 122.6, effective as of February 2021.
- Employer: 2.4% of the gross wage

Contact us

The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Chile should seek professional advice from our member firms before making any business or investment decision.

Contact our member firm in Chile to discuss your requirements:

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