

Introduction

Our Location Offer

Chilean investment has displayed remarkable dynamism against the backdrop of a policy that seeks to ease the regulatory burden on business and to accommodate Chile's increasing international economic engagement. Direct Foreign Investment in Chile shows, just like the foreign trade record, a relatively high volume in relation to the size of Chile's economy, while Chilean companies have become important investors abroad, mainly within the Latin American region, since the early 1990s.

Chile does not have a specific location offer. Foreign direct investment is encouraged and welcome in all sectors of the economy. The attractiveness for foreign investors of an environment of strong economic growth and stability has been complemented by public policies that have sought to ease the regulatory burden on business and to accommodate Chile's increasing international economic engagement. Chile is a relatively small and fairly open economy on both foreign trade and FDI.

Introduction to investment regime

Chile's liberal approach to the participation by foreigners in the economy is reflected in the absence of a specific law concerning foreign investment. There are some specific regulatory measures directed towards mitigating risks that foreign investors may face, by providing assurances regarding changes in tax treatment and repatriation of capital. The latter were important in the period during which

The investment agreements signed by Chile reaffirm the commitment expressed in domestic law to a non-discriminatory, predictable and transparent framework for FDI.

The principle of national treatment is incorporated in Chile's Constitution, which guarantees to both Chileans and foreigners the right to develop any economic activity, provided applicable legislation is observed and such activities are not contrary to public morals and order, or to national security interests.

There are no economic activities reserved for the State, notwithstanding the special provision established under constitutional regulations regarding certain mineral resources.

Chilean economic policy has reflected the importance given to foreign investment, which, once established in the country, benefit from legal protection of property rights. Private property rights are fully protected under the Constitution and property may only be expropriated pursuant to specific constitutional provisions: expropriations may only be executed by a law approved by the legislature, on grounds of public benefit or national interest and the expropriated parties have the right to compensation for the actually caused material damage, which is to be established by mutual agreement or by ruling issued by the courts according to the law.

Accordingly, one of the main objectives of Chile has been to ensure the establishment of clear investment rules, with a view to creating a wider and safer market. Furthermore, it has completed international negotiation processes in order to gradually liberalize the markets for investors, as well as to strengthen integration processes that may contribute to trade expansion and the creation of strategic alliances to tackle global markets.

Investment priority plan/equivalent policy

No, in general terms Chile does not have an investment priority plan and investing in Chile by foreigners is encouraged for all sectors. However, there are several economic activities that have been identified as important sectors in which foreign investment is boost. Those sectors are offshoring, food industries, mining, biotechnology, renewable energy and emerging industries such as aquaculture and wineries.

More information

Regulation of foreign investment

Process for foreign entities/nationals to invest in our economy

Chile

In Chile, there is a free entrance of capitals. Thus, subject to domestic regulations, investors can materialize their investment freely.

The Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations establishes rules for investment, capital contributions, and foreign credit. Under Chapter XIV, the Central Bank is not allowed to reject foreign investments, although it may impose conditions based on its monetary policy on the transfer of funds into and out of Chile, such as a one-year retention requirement. Once the investments are materialized, investors should provide information to the Central Bank under Chapter XIV.

In addition, there is a special and voluntary regime known as Decree Law No. 600.

Any foreign individual or legal entity, as well as Chileans with residence abroad, can invest through D.L. 600. Under this mechanism, investors enter into a legally binding contract with the Chilean State, which cannot be modified unilaterally by the State or by subsequent changes in the law. However, investors may, at any time, request the amendment of the contract to change its purpose or assign its rights to another foreign investor.

D.L. 600 guarantees investors the right to repatriate capital one year after its entry and to remit profits at any time. In practice, the one-year capital lock-in has not represented a restraint since most productive projects -in areas such as mining, forestry, fishing and infrastructure- require more than a one-year start-up period. Once all relevant taxes have been paid, investors are assured access to freely convertible foreign currency without any limits on the amount, for both capital and profit remittances. In addition, they are guaranteed the right of access to the formal exchange market. The repatriation of all capital invested is devoid of any tax, duty or charge up to the amount of the originally materialized investment. Only capital gains over that amount are subject to the general regulations contained in the tax code.

It should be noted that although there are no foreign exchange restrictions currently in place, the Central Bank has the authority to impose restrictions to foreign exchange transactions, in order to preserve the stability of the currency and the normal functioning of external and internal payments. However, D.L. 600 investors are exempt from these restrictions and their right to access the market in order to repatriate profits or capital is not affected.

The D.L. 600 contract acknowledges as foreign investment:

- * Freely convertible currency that can be exchanged at the most favorable rate that foreign investors can obtain from an entity authorized to operate in the Formal Exchange Market.
- * Tangible assets, in any form or condition brought into the country according to general import regulations, without exchange coverage. The value of these goods will be determined using general procedures applied to imports. These tangible assets include, among others, machinery or equipment used in productive processes.
- * Technology, in any form susceptible to be capitalized, which will be appraised by the Foreign Investment Committee according to its real international market value, within 120 days after the foreign investment application is submitted. If the appraisal is not carried out, the value assigned shall be that estimated by the investor in an affidavit. In previous cases, independent consultants have performed this task.
- * Credits associated to foreign investment: The general regulations, terms, interest and other modalities of foreign credit contracts, as well as surcharges related to total costs to be paid by the debtor, including commissions, taxes and expenses, shall be those authorized by the Central Bank of Chile.
- * Capitalization of foreign loans and debts, in freely convertible currency, whose contract has been duly authorized by the Central Bank Under D.L. 600: Investors can increase the capital of the company which received the investment through both the capitalization of credits made under Chapter XIV and the credits derived from current imports and pending payments.
- * Capitalization of profits transferable abroad: D.L. 600 allows capital increases of the company receiving the investment through the capitalization of transferable profits.

Foreign investors may request a maximum time-limit of three years to materialize their contributions. Under article 11 bis of DL 600, investments of not less than US\$ 50 million for industrial or non-mining extractive projects can request a time-limit of up to eight years. In the case of mining projects, the time-limit is eight years but, if previous exploration is required, the Foreign Investment Committee may extend it to up to twelve years.

Chile

Special Advantages for Foreign Investors: Although Chile's Constitution is based on the principle of non-discrimination, D.L. 600 offers some tax advantages for foreign investors. These are not "tax breaks" or "tax holidays", but are intended to provide a stable tax horizon, acting as a form of "tax insurance". D.L. 600 offers several different tax options, but basically allows the investor to lock into the tax regime prevailing at the time an investment is made.

Invariability of Income Tax Regime: All Chilean companies have to pay a First-Category Tax (or Corporate tax) equivalent to 17% Under Chile's Common Tax Regime, a 35% tax is currently levied on distributed or remitted profits. Interest paid to non-residents is also subject to a 35% additional withholding tax, however, interest on loans granted by foreign banking or other financial institutions is subject to a 4% tax, provided that excess indebtedness provisions do not apply. Under DL 600, a foreign investor can opt to lock into an effective fixed overall tax rate of 42% on taxable income for up to ten years, or -under article 11 bis- for up to twenty years in the case of industrial and extractive investments of US\$ 50 million or more. The investor, thereby, acquires immunity from any tax increases in the Common Tax Regime that may occur during that period. The lock-in can be waived at any time, but an investor cannot subsequently revert to the guaranteed 42% rate. The First-Category payment of 17% can be set against tax returns under both the Common Tax and Invariable Tax Regimes.

Invariability of Indirect Taxes: D.L. 600 states that foreign investments brought into the country in the form of tangible assets are subject to the general VAT taxation regime and customs regulations. However, foreign investors are entitled to include a clause in their contracts giving them access to a regime that freezes Value Added Tax (currently at 19%), as well as import tariffs on capital goods for the project, at their rate at the date of the investment. This special regime applies throughout the period authorized for carrying out the investment. Additionally, imports of some of these capital goods such as machinery or equipment are exempt from VAT in the case they are not produced in Chile and are on a list compiled, prepared and published by the Ministry of Economy's Foreign Trade Department. The current list was approved by Decree 204 of the Ministry of Economy, published in the Official Gazette ("Diario Oficial") on December 12, 2002, and is available at the Ministry of Economy's website.

Foreign investors who sign a D.L. 600 contract are exempted from VAT on other technology imports, providing they appear on this list compiled by the Foreign Trade Department. The products currently listed include accounting and data processing machines, TV cameras, lasers and magnetic resonance imaging diagnostic equipment (MRI), among several others.

Special Regime for Large Projects: Under article 11 bis of D.L. 600, investments in new industrial or extractive activities, including mining, are entitled to additional tax benefits, providing they have a value of at least US\$ 50 million. Currently, the Foreign Investment Committee is revising its policy regarding article 11 bis, and new contracts under this regime are not being approved at this time. This policy is subject to change in the future.

New Legislation for mining projects: On 16 June, 2005, Law 20.026 was published in the Official Gazette. It establishes a specific tax on mining activities, which will come into force on 1 January, 2006. The Law amends Decree Law 600 by adding a new Article 11 ter. That article establishes a regime of invariability for the aforementioned tax, for those investors that sign a new foreign investment contract related to projects with a value of no less than US\$ 50 million. In order to opt into this special regime, investors with existing foreign investment contracts must not have made use of the special invariability regimes set out in articles 7 and 11 bis of DL 600, or they must renounce those regimes at the time of opting into the rights under article 11 ter. The deadline for submitting a request to opt into the regime under 11 ter for investors with existing foreign investment contracts was November 30, 2005. More information may be found at http://www.cinver.cl/index/plantilla2.asp?id_seccion=1&id_subsecciones=140

Foreign Investment Procedures: A foreign investor who wishes to invest through the D.L. 600 must submit an application to the Executive Vice-Presidency of the Foreign Investment Committee. Applications forms are available through our website (www.cinver.cl). Since June 6 of 2003, the minimum investment amount for a new project is US\$ 5,000,000 (five million dollars) when investments consist of foreign currency and associated credits. The minimum amount is US\$ 2,500,000 (two and a half million dollars) when the investment is in the form of tangible assets, technology, and capitalization of profits or capitalization of credits. The Foreign Investment Committee retains the right to modify both figures. Projects submitted to the Committee's consideration must involve a ratio between equity and associated credits of up to 25/75.

In the case of foreign currency, investors can execute their foreign exchange operation only when the contract has been duly signed. However, when submitting the application, they can request a special authorization to exchange their currency immediately. Any other type of capital contribution requires the Foreign Investment Contract to be duly signed.

Chile

It is important to note, that the Foreign capital investment funds law (FCIFs), (LawN? 18.657) establishes a preferential tax treatment for Foreign capital investment funds.. FCIFs are required to obtain a favorable report issued by the Chilean Securities and Insurance Supervisor ["Superintendencia de Valores y Seguros" (SVS)] in order to conduct business in Chile. FCIFs may not remit capital for five years following the investment of such capital, although earnings maybe remitted at any time. A FCIF may hold a maximum of 5% of a given company's shares, although this can be increased to a maximum of 10% if the company issues new shares. Furthermore, no more than 10% of a FCIF's assets may be invested in a given company's stock, unless the security is used or guaranteed by the Republic of Chile or the Central Bank. All together, no more than 25% of the outstanding shares of any listed company may be owned by FCIFs.

Finally, it is worth mentioning that the Central Bank of Chile, pursuant to its Basic Constitutional Act and in order to provide for stability of the currency and the normal functioning of the internal and external payment system, is entitled to issue regulations on foreign exchange transactions. At the present time, there are no restrictions to perform foreign exchange transactions.

A summary of all general relevant laws/regulations and policies pertaining to investment (i.e. that may impact before or after entry) including website reference for up-to-date information follows.

(i) Central Bank www.bcentral.cl

(ii) Decree Law No. 600 www.cinver.cl

(iii) Law 18.657 www.svs.cl

Does this apply to all investment or, are there differential treatment?

Yes.

Foreign investors in Chile can own up to 100% of a Chilean-based company, and there is no time limit on property rights. They also have access to all productive activities and sectors of the economy, except for a few restrictions in areas that include coastal trade, air transport and the mass media. In the case of fishing, restrictions are subject to the rules of international reciprocity.

The State has a very minor productive role in Chile. Only a few strategic activities --such as exploration and exploitation of lithium, liquid and gaseous hydrocarbons deposits in coastal waters under national jurisdiction or located in areas classified as important to national security, and the production of nuclear energy-- are restricted to the State. However, under certain circumstances, foreign companies can invest even in these sectors.

Local and sector-specific legislation exists at the national, regional and municipal levels.

For more detailed information on sector-specific policies see

<http://www.cinver.cl/index/links.asp>

Conditions of investment

In Chile there are some specific regulations or measures which apply to all types of investments in some sectors. A brief explanation it's provided below.

Transport

Air transportation

Foreign participation in air transport is limited to minority holdings in Chilean enterprises, as only Chilean nationals and those enterprises in which they hold majority ownership may register an aircraft in Chile. Firms in the sector also face requirements regarding nationality of presidents, managers and a majority of directors and/or administrators.

Maritime transportation

Registration requirements for vessels limit foreign participation in the water transportation and shipping sector, including cabotage and tugging activities performed in Chilean ports, to minority stake holding in Chilean controlled firms. Restrictions are also present in the activities of stowage and dockage, which must also be carried out by Chilean majority owned firms.

Land transportation

Chile

International land transport between Chile and its neighbours is reserved for enterprises that are established in Chile, or one of its neighbouring countries, and majority owned by nationals of these countries. International land operators cannot carry out local transportation services.

Mining

Mining by the private sector in Chile is carried out mostly through a system of judicial concessions, as the Constitution establishes the total, exclusive, inalienable and everlasting ownership of the State over mines. The Constitution establishes that mining concessions are to be granted through a resolution by a court of law in a non-contentious procedure, without decision-making intervention of any other authority or person and without prejudice to the right of a third party to oppose the registration of a claim that is harmful.

The Constitution also establishes that mining activities in certain parts of the country and for certain products, no matter where they may be found, may not be the subject of judicial concessions; in these cases, operations can only be executed by the State, a State-owned enterprise, or by means of administrative concessions or special operation contracts. This is the case for the exploration, exploitation and treatment of liquid or gaseous hydrocarbons, as well as of lithium and uranium deposits. The restriction also applies to products located in seawaters subject to national jurisdiction and in areas classified as important for national security. The requirements and conditions for such administrative concessions or special operating contracts are subject to the requirements and the conditions to be determined in each case by a Supreme Decree of the President of the Republic. Authorisation is therefore required for mining of uranium and for hydrocarbon and lithium deposits.

There are various additional restrictions concerning transactions with radioactive materials, which are reserved for the State and derive from national security considerations. Chile has the right of first offer at market prices and terms for the purchase of mineral products when thorium and uranium are contained in significant quantities. Furthermore, only the Chilean Nuclear Energy Commission, or parties authorised by the said Commission, may execute or enter into juridical acts regarding extracted natural atomic materials and lithium, as well as their concentrates, derivatives and compounds.

Energy

Production of nuclear energy is reserved to the Chilean Nuclear Energy Commission, which may set the conditions for private parties to participate in joint projects.

Fisheries and aquaculture

Fishing is reserved to Chileans, by virtue of two restrictions: the first establishes that only Chilean flag vessels are allowed to fish in internal waters, the territorial sea and the exclusive economic zone; the second establishes that only Chilean nationals or firms in which they hold more than 50% of the equity capital and that are incorporated and have their real effective seat in Chile may register a fishing vessel. In addition, resident enterprises constituted by foreign non-residents are not permitted to engage in small-scale fishing.

The law also establishes that the requirement of Chilean majority ownership for registration of fishing vessels may be waived in the case of investors from countries that do allow registration of Chilean owned vessels.

Foreigners may obtain concessions to use beaches, land adjacent to beaches, water-columns and seabed lots to engage in aquaculture activities, as well as to obtain a permit in order to harvest and catch water species in internal waters, the territorial sea and in the exclusive economic zone. The Ministry of National Defence grants the right to the use and benefit, for an indefinite period, of certain national properties, in order to conduct aquaculture activities. If the holder of the concession fails to meet certain mandatory conditions, the concession may be revoked. The requirements for granting of a concession include environmental impact assessments among other studies.

Printed media and news agencies

Ownership of printed media and national news agencies is open to foreigners, who must, nevertheless, fulfil domicile requirements and be incorporated in Chile. There are also nationality and residency requirements for presidents, administrators, legal representatives and managers that apply to Chilean and foreign-owned enterprises alike.

Post, telecommunications and broadcasting

Chile

Concessions are also prevalent in the telecommunications sector and incorporation is required to obtain or use a concession. The procedures for granting telecommunications concessions do not establish entry barriers for new operators to the local telecommunications market and the procedures and technical criteria are intended to be objective and non-discriminatory; they are mandatory for both nationals and foreigners. In fact, the majority of telecommunication operators in Chile are controlled by foreign investors and have been operating since the first privatisations. Presently, all companies are private and there is no State participation in the sector.

Concessions from the Minister of Transportation and Telecommunications are needed for the purpose of installation, operation and exploitation of public telecommunication services, intermediate telecommunication services and radio broadcasting services. The operator must be a juridical person duly constituted in Chile and with domicile in the country.

The use and enjoyment of frequencies of the radio-electric spectrum is granted on a free and equal access basis by means of essentially temporary telecommunications concessions, permits or licenses granted by the State through the Ministry of Transportation and Telecommunications. Concessions and permits may be granted without limitations as to the quantity or type of service, or the geographic location. Therefore, more than one concession or permit for the same type of service may exist in the same geographic area.

In general, incorporation in Chile is a condition to be the holder of a title to such concessions and there are various nationality requirements for the presidents, managers and administrators of the firm.

Investment promotion and facilitation

More information about the process of investing in our economy

www.corfo.cl

www.investchile.com

www.inversionextranjera.cl

www.prochile.cl

Investment protection

Protection of property rights and conditions for expropriation

Expropriation is not defined directly under Chilean law. The Chilean Constitution makes reference to expropriation in article 19.24, which states:

"In no case may anyone be deprived of his property, of the assets affected or any of the essential faculties or powers of ownership, except by virtue of a general or a special law which authorizes expropriation for the public benefit or the national interest, duly qualified by the legislator. The expropriated party may protest the legality of the expropriation action before the ordinary courts of justice and shall, at all times, have the right to indemnification for patrimonial harm actually caused, to be fixed by mutual agreement or by a sentence pronounced by said courts in accordance with the law."

General expropriation procedures are established by Decree Law No. 2186. All Chilean regulations relating to expropriation, including the Constitution, refer only to direct expropriation. No mention is found under Chilean law or jurisprudence to indirect expropriation. However, the term is used in international agreements signed by Chile. One significant example is the FTA with the United States, which contains specific regulation on indirect expropriation. Article 10.9 sets out as a general rule that "Neither Party may expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization", subject to a series of exceptions and terms. Annex 10-D regulates expropriation, and particularly indirect expropriation. Its text is transcribed below:

National jurisprudence has established that expropriation is an administrative act undertaken by virtue of the powers given directly by the legislation to the competent authorities, which must comply with a series of conditions, as set out in the Constitution.

Chile

Further, Article 19, N° 24, paragraph 1 of the Constitution guarantees to all persons: "The right of ownership in its diverse aspects over all classes of corporeal and incorporeal property. Only the law may establish the manner to acquire property and to use, enjoy and dispose of it, and the limitations and obligations derived from its social function. Said function includes all the requirements of the Nation's general interests, the national security, public use and health, and the conservation of the environmental patrimony."

Therefore, limitations to property that can be established by means of an expropriation act can only be carried out by virtue of their social function. The Constitution has not defined this social function, but has rather described in detail its components: the Nation's general interests, national security, public welfare and health, and the conservation of the environment.

The Constitution further mandates that all expropriation acts must be compensated: "The expropriated party... shall, at all times, have the right to indemnification for patrimonial harm actually caused..."

More information

Protection of IPRs

The Chilean legal and institutional framework on IPR confers protection to all categories of intellectual property included in the TRIPS Agreement: copyright and related rights, trademarks, geographical indications, patents, industrial designs, and layout designs of integrated circuits and protection of undisclosed information.

The Chilean intellectual property regime has significantly evolved in recent times as a result of the incorporation of TRIPS commitments into national law. In addition, several modifications have been driven to meet international standards reached in bilateral commercial agreements. Even while the implementation of IPR standards is an ongoing process, Chile has one of the highest levels of IPR protection in the region.

Chile has been a member of WIPO since June 1975, and has signed a number of IPR conventions (see table below). The TRIPS Agreement was incorporated into Chilean law as a result of the ratification of the Marrakech Agreement, and came into force nationally in 2000.

Chile's participation in IPR treaties administered by WIPO

Agreement, convention or treaty (latest Act in which Chile participates)	Date on which Chile became party (date it became party to an Act)
Berne Convention for the Protection of Literary and Artistic Works (Paris Act)	June 1970 (July 1975)
Convention Establishing the WIPO	June 1975
WIPO Copyright Treaty	March 2002
WIPO Performances and Phonograms Treaty	May 2002
Paris Convention for the Protection of Industrial Property (Stockholm Act)	June 1991
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	September 1974
International Convention for the Protection of New Varieties of Plants (UPOV 1978)	January 1996

The main domestic statutes for the protection of IPR in Chile are the Intellectual Property Law (Copyright Law), No. 17.336 of 2 October 1970, with its Regulations (Supreme Decree No. 4.764, of 8 January 1985), and the Industrial Property Law, No. 19.039, of 25 January 1991 (with amendments introduced by Law 19.996 of 1 December 2005, and Law N° 20.160 of January 26th 2007). The protection of new plant varieties is regulated through Law No. 19.342.

Chile

Industrial Property

In Chile, the term industrial property refers to trademarks, patents, utility models, industrial designs, geographical indications, appellation of origin, layout designs of integrated circuits and protection of undisclosed information.

In late 2003, through Law N° 19.912 special border measures were implemented for enforcement of IPR as established in TRIPS and in the Chile-US FTA. In December 2005, one of the largest reforms to the Chilean Industrial property system came into force, through amendments introduced by Law 19.996. Its consequence is that nowadays Chile has special registries and grants protection for patents/utility models, industrial designs, geographical indications/appellation of origin, trademarks, layout designs of integrated circuits and provides for the protection of undisclosed information of regulated products. This system establishes international exhaustion of industrial property rights as a general rule.

The Department of Industrial Property of the Ministry of Economy is in charge of granting industrial property rights.

Trademarks

Trademarks are granted for 10 years, and they may be indefinitely renewed. There are no requirements of use for the registration or renewal of trademarks. Rights' holders have both civil and criminal remedies. They can collect costs and damages and courts have, among others, the power to order the destruction of tools and implements used to produce the falsification or copy. The Customs Service may also enforce some industrial property rights at the border.

Patents and Utility Models

Patents are protected for 20 years following their filing, and may be granted to products or to procedures. The patent system establishes for international exhaustion of rights. Economic models and business plans, discoveries, scientific theories and mathematical methods, surgical, therapeutic or diagnostic methods, plant varieties, animals and software are excluded from patent or utility models protection. The patent system includes the possibility of granting compulsory licences in cases of (i) monopoly abuse, (ii) national security, public health, and national emergencies, (iii) non-commercial public use, or (iv) cross licensing in relation with patented subject matters.

Rights' holders have both civil and criminal remedies. They can collect costs and damages and courts have, among others, the power to order the destruction of tools and implements used to produce the falsification or copy.

Industrial Designs

Novel industrial designs are protected for 10 years from the date of filing and they include textile designs and stampings. This period is non-extendable. Industrial designs can be protected at the same time under copyright law as copyrights goods.

Copyrights and Related Rights

For copyrights and related rights the term of protection is 70 years. Protection is automatically recognized once works are created, so the register is just a publicity measure; it also constitutes a legal presumption in favour of the person who registered it.

Rights' holders have both civil and criminal remedies. Infringers, once convicted, may be forced to pay damages, fines and also be imprisoned. The Customs Service may also enforce some IPR at the border.

A bill was introduced in Congress in May 2007 to improve enforcement regulation for both civil and criminal procedures of copyright and related rights, and to introduce a new regime for exceptions and limitations to copyright and related rights. This bill is currently at the Chamber of Deputies.

The Copyright Department of the Library, Archives and Museums Directorate is in charge of the Copyright Registry.

Geographical Indications

Chilean geographical indications for wines and spirits are regulated through Law No. 18.455. As mentioned earlier, since 2005 a general registry for both Chilean and foreign geographical indications is available.

Chile

Most of Chile's preferential agreements contain provisions on geographical indications' protection. For instance, the Chilean geographical indication "Pisco" has been recognized in agreements with Brunei, China, Canada, the European Union, Mexico, Japan, New Zealand, Singapore; South Korea and the United States. This denomination identifies spirits coming from Regions III and IV regions in Chile, where "Pisco" has been produced since the sixteenth century.

At the international level, in 2005 Chile, together with Argentina, Australia, Canada, Chinese Taipei, Ecuador, Mexico, New Zealand and the United States submitted to the Council of TRIPS a proposed Draft on the Establishment of a Multilateral System of Notification and registration of Geographical Indications for Wines and Spirits (TN/IP/W/10) that facilitates the protection of Geographical Indications for wines and spirits through a system that is voluntary, that preserves the existing balance of rights and obligations in the TRIPS Agreement, the territoriality of IPR for geographical indications, and that allows WTO Members to determine for themselves the appropriate method of implementing the provisions of TRIPS Agreement within their own legal system and practices.

Undisclosed Information

A whole chapter on undisclosed information was introduced in 2005 to the Industrial Property Law, both for trade secrets and for data that must be submitted to government agencies for granting sanitary approval of pharmaceutical and agrochemical products. Protection is granted for 5 years to pharmaceutical products, and 10 years to agrochemical products, from the registry.

Authorities in charge of granting protection are the National Health Institute (ISP), to pharmaceutical products, and the Agriculture and Livestock Service for agrochemical products

Enforcement of IPR

There are specific procedures for the suspension of release by Customs authorities of goods that infringe upon rights established in the Industrial Property Law (Law 19.039) and the Copyright Law (Law 17.336) at the request of the rights' holder. It also allows in certain cases for ex-officio action for suspending the release of counterfeit merchandise and pirated goods.

The Department of Industrial Property, the Arbitration Court for Industrial Property and the Agriculture and Livestock Service, for issues related to plant varieties, are responsible for preventive and protective administrative actions.

Industrial Property and Intellectual Property provide for both criminal and civil remedies. But nullity cases related to industrial property must be filled before the Department of Industrial Property.

Persons convicted for offences against right holders of intellectual or industrial property rights are required to pay costs and damages to right holders and also fines.

Finally, the modification of the Chilean criminal system, whose implementation process finished in 2005, has shown increasing efficacy in the pursuit of IPR infractions.

Other Issues

Chile is committed to adhere to UPOV by 2009. Rights related to New Varieties of Plants must be pursued before the Civil Courts. The Seeds Department of the Agriculture and Cattle Service administers applications for the protection of new plant varieties, while the Qualifying Committee of Plant Varieties grants plant-breeder rights.

More information

Flow of funds

Chile has a free floating exchange rate regime. However, the Central Bank of Chile may intervene in the foreign exchange market, should the exchange rate deviate from its medium - and long-term fundamentals, with negative effects on the economy. In such situations, the Central Bank may intervene in the foreign exchange market with the purpose of mitigating or eliminating these imbalances.

And if managed, under what circumstances or purposes does your government/central bank intervene?

N/A.

Chile

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

Currently there are no foreign exchange restrictions in place, and therefore there are no restrictions on the repatriation of funds related to a foreign investment. Nevertheless, the Central Bank has the authority to impose restrictions to foreign exchange transactions, in order to preserve the stability of the currency and the normal functioning of external and internal payments.

Mechanisms to review decisions, and settle disputes

A fully regulated dispute resolution mechanism, to settle controversies arising between the contracting Parties or between one Party and investors from the other Party are included in all of the Agreements signed by Chile. In this latter case, the investor is entitled to choose whether to submit to the jurisdiction of national courts or to initiate an international arbitration proceeding before ICSID -which Chile signed up to with effect from 24 October 1991 - or before an ad-hoc tribunal constituted according to UNCITRAL rules. The decision of the arbitrator is final.

Therefore, if an investor of a country which doesn't have a treaty with Chile wants to sue the State, avenues for appeal are available.

What, if any, mechanism do you have for foreign investors to settle disputes?

ICSID

More information

International investment agreements

With;

Argentina; Australia; Austria; Belgium; Bolivia; Canada; China, People's Republic of; Colombia; Costa Rica; Croatia; Cuba; Czech Republic; Denmark; Ecuador; El Salvador; European Union; Finland; France; Germany; Greece; Guatemala; Honduras; Italy; Japan; Korea, Republic of; Luxembourg; Malaysia; Mexico; Nicaragua; Norway; Panama; Paraguay; Peru; Philippines; Poland; Portugal; Romania; Spain; Sweden; Switzerland; Ukraine; United Kingdom ; United States; Uruguay; Venezuela;

Please provide a brief description of these IIAs, or your IIAs in general.

Chile has pursued international investment agreements as a means to strengthen the investment environment by providing certainty regarding rights and obligations of investors. Bilateral investment treaties (BITs) and specific investment chapters in free trade agreements (FTAs) signed by Chile contain clauses regarding fair and equitable treatment, national treatment and most favoured nation status.

In addition, Chile has included investor-State dispute settlement mechanisms in these international agreements.

Chile initiated negotiations of BITs in the 1990's after adhering in 1991 to the 1965 Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Note: BITs are in force between Chile and Argentina, Austria, Belgium and Luxembourg, Bolivia, China, Costa Rica, Croatia, Cuba, the Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Guatemala, Honduras, Iceland, Italy, Malaysia, Nicaragua, Norway, Panama, Paraguay, the Philippines, Poland, Portugal, Romania, Spain, Sweden, Switzerland, Ukraine, the United Kingdom, Uruguay, and Venezuela.

Through BITs, Chile offers protection to investors and guarantees the free transfer of capital, of profits or interest generated by foreign investments, and, in general, any transfer of funds related to investments, without affecting the regulatory powers of the Central Bank regarding foreign exchange transactions.

Chile

These agreements establish investor-State dispute settlement mechanisms to enable disputes to be settled through friendly consultations. If no agreement is reached, investors are entitled to opt for submitting the case before the Chilean tribunals or to international arbitration. In most BITs, this jurisdictional option is final; once the investor has chosen one of the options, it cannot turn to the other.

Chile's current policy is to include specific investment chapters in FTAs and to have these replace existing BITs. Even though some FTAs have maintained in force previously signed BITs, it has been Chile's preference to have a self-contained investment chapter which regulates both investment in goods and services by means of a negative list approach. Additionally, most of the FTAs cover investment from the pre-establishment phase. These investment chapters provide the protection offered by the BITs and include additional provisions that increase the level of protection of investors, such as more developed rules on minimum standard of treatment and expropriation, as well as prohibition of certain performance requirements and of the imposition of nationality requirements on senior management and board members.

As for investor-State dispute settlement, many of the FTAs have, compared to BITs, more developed international arbitration procedures as they include additional provisions covering consolidation, amicus curiae, transparency and preliminary objections.

Agreements in force

Chile has 36 BIT's currently in force. In addition, it has signed twenty FTAs. In total, Chile has investment agreements in force with 56 countries. Eight of these treaties include investment provisions in self-contained chapters.

More information

www.direcon.cl

Movement of persons

Treatment of foreign nations or personnel of foreign firms

The Labour Code of Chile (DFL N°. 1) governs personnel management of foreign firms and provides the domestic labour law which applies to foreign firms in the context of labour disputes/relations.

Movement of People

The general "Entry" regime can be considered as highly convenient for foreigners. Chilean migration laws are contained in Decree Law No. 1,094 of 1975, on foreign citizens and in Supreme Decree N° 597 of 1984 which specifies how to make applicable the Decree Law.

Chile has included a specific Chapter on Temporary Entry of Business Persons (TEBP) in FTAs with the U.S., Canada, Mexico, Peru, Colombia and Korea. With the E.U., the TEBP commitments are reflected on the positive list as Mode four concessions.

These legal texts vest the power to issue visas and resident permits for foreigners in the Ministries of Interior and Foreign Affairs.

The Ministry of Interior exercises these powers through the Department of Migration and Alien Affairs at central level, and through interior government offices at regional and provincial levels. In turn, the Department of Consular Affairs and Immigration of the Ministry of Foreign Affairs is responsible for matters affecting foreign citizens and issues consular authorizations and residence visas through Chilean Consulates abroad.

The relevant legislation contains the following migration categories:

* Tourists

A tourist is any individual entering the country for a period not exceeding 90 days, for recreation, sports, health, study, business, family, religious and other similar reasons, but not for purposes of immigration, residence or development of remunerated activities.

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In some cases, for reasons of national interest or based on the principle of international reciprocity, individuals should obtain a consular authorization (visa) from the relevant Chilean Consulate abroad prior to their entry to Chile. However, holders of the APEC Business Travel Card do not require consular authorization.

* Residence

Residence Subject to a Labour Contract: this permit is granted to foreigners who enter the country with a work contract. This type of residence visa is conditioned to the performance of the activities agreed with the employer (who must be domiciled in Chile) and is issued for a maximum period of two years, and may be extended for similar periods while the contract duration.

Student Residence permits are granted to foreigners who enter the country in the capacity of registered students in State or State-recognized educational institutions or a private institution recognized by a latter, or in a higher or specialized educational centres or institutions provided they can substantiate their corresponding enrollment. This permit only allows doing the relevant studies and is issued for a maximum period of one year, and may be renewed until completion of the relevant study program. In the case of scholarships, the permit is issued for one year but it may be renewed until the completion of the scholarship.

Temporary Residence permits are granted to foreigners with proven family ties or interests in the country whose residence is deemed useful or convenient. Generally, this type of visa allows its holder to carry out any activity in Chile, to the extent that the laws permit such activities. It is issued for a maximum period of one year, and may be renewed for a like period only once again. If the person wants to be renewed a third time, it is obligatory that he ask for definitive residence.

Permanent Residence Permits (granted for an indefinite time) are granted to aliens to live indefinitely in the country and undertake all kinds of activities, without any restrictions other than those established in all legal and regulatory bodies.

More information

www.extranjeria.gov.cl

Taxation

Taxation of foreign nationals and foreign firms

The Chilean income tax system affects:

- * Business income ("Impuesto de Primer Categor?a" - First Category Tax (FCT))
- * Salaries and remuneration ("Impuesto Unico de Segunda Categor?a" - Second Category Tax (SCT))
- * All personal income ("Impuesto Global Complementario" - Complementary Global Tax (CGT))
- * Income obtained by non-residents ("Impuesto Adicional" - Additional tax (AT))

FIRST CATEGORY TAX (FCT)

1. Rate and tax base

The FCT's rate is 17% (Note1). It is applied on an annual basis, January 1 to December 31 (calendar year). Income is assessed on a received or accruals basis. The tax base is arrived at by adjusting financial accounts in accordance with regulations in the Income Tax Act. Loss carry back and forward is not limited in time. The Income Tax Act "Ley de la Renta" establishes what constitutes deductible expenses or how the accelerated depreciation works.

2. Branches and permanent establishments

Branches and permanent establishments of foreign entities or persons are subject to FCT just like any other Chilean entity. Any distribution or remittance of earnings is subject to tax (see part "Additional Tax").

SECOND CATEGORY TAX (SCT)

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The SCT is a progressive tax with rates ranging from 0% to 40% (Note 2). It is calculated on gross salary and work compensations less social security payments. The tax is withheld by the employer.

COMPLEMENTARY GLOBAL TAX (CGT)

1. Rates

The CGT is a progressive tax with rates ranging from 0% to 40% (Note 3).

2. Tax base and calculation

The CGT is applied on an annual basis and income of all sources is included in the calculation of the tax base.

Income corresponding to dividends or distributions of profits are added and computed according to the following general rules:

Dividends or distributions of profits must first be attributed to taxable profits, so that exempt income can be distributed only after retained taxable income has been exhausted;

Distributions of profits must begin by the oldest retained earnings (FIFO);

FCT corresponding to the taxable profits is added to the taxable basis (grossed up) and then deducted as a credit from the determined GCT.

ADDITIONAL TAX (AT)

1. Main features

Additional tax applies to remittances or payments of income abroad, or when money in Chile is made available to a non-resident or non-domiciled person. The non-resident is obliged to pay the additional tax but it is withheld by the payer and paid over to the tax authority by the latter. The applicable rates of additional tax may be affected by application of tax treaties.

2. Rates

The Additional tax is withheld at source at the general rate of 35%. For some specific income the rates are as follows:

- Interest payments made to banks and financial institutions, 4%;
- Services rendered in Chile or abroad are subject to two different tax rates. As a general rule, services are taxed at 35%. However, if the work in question can be characterised as engineering services, technical services or professional services, it is subject to a rate of 15% (20% if the payment is made to a related party or to a country qualified as a tax heaven).
- Foreign entities that engage in maritime transport and related services to and from Chile are subject to a 5% withholding tax, though in many cases this tax is exempt due to reciprocal treatment.
- * The tax rate for lease and rent leasing of imported assets that qualify to the system of deferred payment of custom duties, is 1,75%.
- * Payments to insurance companies not established in Chile for insuring equipment or other goods in Chile, or for life or medical insurance of persons resident or domiciled in Chile is 22% and 2% for reinsurance.
- * Royalty payments are taxed at 30%. However, if the payment refers to a film to be used in television or cinema the withholding tax is reduced to 20%. In relation to intellectual property, a tax of 15% is applied to the use, enjoyment or exploitation of patents, as well as such intangibles as industrial designs or a process for creating new vegetable varieties and on the payments received as consideration for the use, enjoyment or exploitation of computer software (the rate will be increased to 30% where the payment is made to a related party or to a country qualified as a tax heaven).

3. Calculation

Dividends or distribution of profits must be first attributed to taxable profits, so that exempt income can be distributed only after retained taxable income has been exhausted.

Distributions of profits (and credits) must be accounted for by beginning with the oldest retained earnings (FIFO method).

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FCT corresponding to the taxable profits is added to the taxable basis (grossed up) and then deducted as credit from the determined Additional tax, in the same way as if the recipient of the income is a Chilean resident and subject to personal tax in Chile.

4. Branches and permanent establishments

Income from the business activities of the branch and any other Chilean source income is subject to AT when remitted abroad. The branch is entitled to the FCT credit against AT, which is equivalent to the rate of the FCT for the year from which it is distributed.

FOREIGN TAX CREDIT

Foreign taxes may be credited against domestic taxes or treated as a deductible cost. Chile applies a credit mechanism in its domestic law and in its tax treaties.

1. If no tax treaty is applicable, Chile provides an ordinary credit for the foreign tax paid on dividends and remittance of profits, income from permanent establishments or agencies, and income from the use of brands, patents and formulas, technical advises and similar performances received by resident taxpayers from abroad.

Regarding dividend payments and remittance of profits, the credit granted will be the less amount resulting from the comparison between a) the tax paid abroad on the respective income and b) The amount equal to the 30% of a specific amount from which by reducing that 30% the result will be the net income received by the taxpayer [Tax Credit = (Amount received / 0,7) * 0,3]. This credit will be applied against First Category Tax, any unrelieved credits may be credited against the Complementary Global Tax or Additional Tax, as corresponds.

With respect to income from permanent establishments or agencies, and income from the use of brands, patents, formulas, technical advises and similar performances received by resident taxpayers from abroad, the tax credit will be the amount equal to the rate of the First Category Tax (currently 17%) of a specific amount from which by reducing that credit the result will be the net profit received [Tax Credit = (Amount received / 0,83) * 0,17]. However, in any case the credit shall not exceed the amount of the tax effectively paid abroad. This credit will be applied against the First Category Tax, but any unrelieved credits cannot be credited against other taxes.

2. If a tax treaty is applicable, Chile also applies a credit mechanism. However, this credit is more extensive than the credit applicable without treaty, as it applies to all kinds of income referred to in the treaty. The credit granted will be the less amount resulting from the comparison between a) the tax paid abroad on the respective income and b) The amount equal to the 30% of a specific amount from which by reducing that 30% the result will be the net income received by the taxpayer [Tax Credit = (Amount received / 0,7) * 0,3]. The credit recognized under a treaty will be applied against the First or Second Category Tax, depending on the kind of income; any unrelieved credit may be credited against the Complementary Global Tax or Additional Tax.

Note 1: According to Law N° 20.455 published in the official gazette on 31 of July 2010, the FCT's rate will be provisionally 20% in 2011 and 18,5% in 2011. After 2012 the FCT's rate will return to 17%.

Note 2: STC's maximum rate was 45% until year 2001, in 2002 the maximum rate was 43% and in 2003 and following years it is 40%.

Note 3: CGT has the same rates than the STC.

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

Chile taxes on a world-wide basis. Persons resident or domiciled in Chile are subject to income tax on their world-wide income. Persons without domicile nor residency in Chile are only taxed on their Chilean source income.

Currently, Chile has comprehensive tax treaties in force with the following countries: Argentina, Belgium, Brazil, Canada, Colombia, Korea, Croatia, Denmark, Ecuador, Spain, France, Ireland, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, United Kingdom, Sweden, Thailand, and Switzerland.

Furthermore, Chile has transport treaties in force with the following countries: Germany (sea), Germany (air), United States (air), France (air), Panama (air), Singapore (Sea), Swiss (Air), Uruguay (air), Venezuela (air and sea).

More information

[More information can be obtained at www.sii.cl](http://www.sii.cl)