

**DOING
BUSINESS
IN**

Chile



HLB Chile

*doing business in
Chile*

foreword

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Chile and its people

Geography and Climate

Chile comprises a continental area of 757,000 square kilometers. Continental Chile is a long, narrow ribbon of land stretching almost 4,270 km along the west coast of South America with an average width of only 200 kilometers, varying between 100 and 400 kilometers. It is wedged between the Andes on the east and the Pacific Ocean on the west, borders Peru on the north and Bolivia and Argentina on the east. Southern Chile is an archipelago with Cape Horn at its tip.

There are five distinct and well-defined geographic regions: the northern desert, the high Andean sector, the central valley, the southern lake district and the archipelago.

The rest of the national territory includes the section of the Antarctic continent located between 53° and 90° Longitude West, Easter Island, the Juan Fernandez Islands and the islands of San Felix, San Ambrosio and Sala y Gomez.

In order to decentralize administration, the country has been divided into twelve regions and a metropolitan area, which includes the capital, Santiago.

Santiago is the commercial centre of the country. Other major cities include Valparaiso, the principal seaport, Vina del Mar, Concepcion, Antofagasta, Temuco, Punta Arenas, Iquique, Coquimbo and La Serena.

Even though much of the north lies within the tropics, the climate is not tropical due to the influence of the Humboldt current and the relatively short distance between the coast and the snowcapped Andes.

The climate in the Santiago area is generally mild and pleasant. Summer (December-March) in Santiago is long and dry with temperatures reaching a low of 50° (10° C) and seldom exceeding 86°F (30°C). The rainy season is from May to August with temperatures averaging 53° F(12° C).

Population, language, religion and education

According to official information, the population is 15,955,000, of which just over 51 % is female. More than 80% of the population live in urban centres and more than 39% live in Santiago and surrounding area. Over one-half of the population is under 21 years of age and approximately four-fifths are under 40. The annual population growth rate is currently about 1.6%, well below the South American average.

The population of Chile is one of the most heterogeneous of South America. Immigration from Europe began in the colonial period mainly from Andalucia and Castille. The Basques were the next to arrive, followed by an influential number of Irish, English, Scots and French. Finally in the years after 1845, there was a significant increase in immigration, especially to the south of Chile, by

Germans, Swiss, Yugoslavs, French, British, Italians and a significant community of Middle-Eastern origins. The indigenous population is small and maintains a largely separate existence, protected by successive governments.

The official language is Spanish, although most businessmen speak or understand either English or German.

Religious freedom is guaranteed by the Constitution. However, Roman Catholicism predominates and is influential at all levels of society.

Over 94% of the population over fifteen years old can read and write. The state schooling system has played a major part in this improvement. The private school system is also strong; many of the private schools have a religious foundation or have their origins in the different nationalities of the immigrants. There are twenty five traditional universities and twenty nine private universities spread throughout the country.

Government

Chile adopted the representative (democracy) and republican (3 independent powers) form of government. Administrative decisions are subject to the approval of the Contraloria and the Judiciary which are independent of the Executive and Legislative bodies.

The new Constitution, which was approved by a national plebiscite in 1980, stipulates that the National Executive Power is held by the President of the country, who is elected for a 6-year term, without the possibility of being re-elected. The National Legislative Power is held by the Senate and by the House of Representatives. The Supreme Court of Justice, the Appeals Court and the Cities Judges compose the National Judicial Power.

Business hours, currency, weights and measures

Chilean time is three or four hours behind Greenwich Mean Time, depending on the season.

In general, office hours are from 8.30 am or 9.00 am to 5.30 pm or 6.00 pm from Monday to Friday. In addition, many factories work on Saturdays. Banks and Government offices are open to the public Monday to Friday, from 9.00 am to 2.00 pm.

Most employees receive a minimum of three weeks annual holiday and, in addition, there are the following statutory public holidays:

New Year's Day	January 1
Good Friday	Variable
Holy Saturday	Variable
Labor Day	May 1
Navy Day	May 21
Corpus Christi	Variable
San Pedro day	June 29
Assumption	August 15
Independence Day	September 18
Armed Forces Day	September 19
Columbus Day	October 12

All Saints' Day	November 1
Immaculate Conception	December 8
Christmas Day	December 25

The currency unit in Chile is the peso (\$). The symbols Ch\$ and P\$ are used externally.

In Chile the metric system is used for all weights and measures.

investment opportunities and markets

The Chilean Economy

Chilean economic policy is based on the free market principle. Chile has a wide range of small, medium and large private companies that have a great production, marketing and investment capability.

The Chilean economy has become one of the most open in the world. Chile has entered into Free Trade Agreements with partners such as Canada, South Korea, the United States and the European Union. It has also signed economic agreements with Bolivia, Colombia, Ecuador, Cuba, Peru and Venezuela. Chile is an active member of Asia Pacific Economic Cooperation - APEC and Pacific Economic Cooperation Council - PEEC, and is an associate member of Mercosur.

Chile has practically no export barriers and does not impose protectionist policies. Chilean exports include over 4.000 different products. Mining represents over 40% of all exports (51% in 2004 as a result of the high price of copper, Chile is the world's leading copper exporter).

The rate of growth in the Gross Domestic Product was 6.1% in 2004 (the best figure from the 6,6% in 1997) and estimates for 2005 range from 5.25 % to 6.25 %.

Trends over the last three years are as follows:

	2002	2003	2004
(US millions dollars, except where otherwise indicated)			
Inflation	3.0 %	1.0%	2.5%
Exports	18,120	21,524	32,025
- Mining	7,120	8,733	16,459
- Farming, forestry, fruit-growing and fishing	2,354	2,094	2,355
- Industrial	8,139	9,364	11,791
- Free Zone	739	845	870
Imports	17,146	19,381	24,871
- Consumption goods	2,818	3,145	3,958
- Intermediate goods	9,615	10,956	14,384
- Capital goods	3,458	3,652	4,684
- Free Zone	987	1,290	1,464

Unemployment is currently high. Recent statistics show that unemployment increased 7.6% between December and February, though 180,000 new jobs were created. The cost of labour in Chile is cheap, especially in international terms.

Attractions for the foreign investor

The attractions of Chile for foreign investors are many and varied. The key factors are:

- abundant reserves of untapped natural resources;
- cheap labour market (well qualified, skilled and unskilled);
- investment incentives;
- statutory guarantees (Decree Law 600) for remittance abroad of profits and capital;
- regional tax incentives;
- growth prospects on the Pacific Ocean seaboard; - proximity to the seaboard with good shipping facilities;
- export incentives;
- efficient non-corrupt infrastructure;
- absence of discrimination against foreigners.

Doing business in Chile is simple. Processing is fluid and the system is well inclined towards foreign trade.

Chile is a country of good commercial repute. Its marked economic growth, as well as the fact that the fiscal surplus was devoted to reducing government debt, encouraged Fitch Rating to move the grading of the Chilean long-term sovereign debt in foreign currency from A- to A, one notch up. The risk grading company also mentions the political consensus that supports the country's orthodox economic policies, which minimizes the possible political volatility related to the congressional and presidential elections in December 2005.

regulation of business

Introduction

A mixture of law, statutory conventions and self regulation provides for the regulation of business in Chile. The interests of shareholders in quoted corporations and certain other companies, including insurance companies, are safeguarded by the Superintendence of Stocks and Insurance Companies. There are some other specific regulatory bodies, such as the Superintendence of Banks and Financial Institutions, the Superintendence of Pension Fund Administrators and the Antitrust Court.

Company legislation and regulation

General and limited partnerships are subject to the Code of Commerce and Law N° 3918 of 1923, but these do not establish formal regulations over the activities of partnerships.

Law No 18046 regulates stock corporations (sociedades anonimas) and provides for regulatory supervision over those companies which have more than five hundred shareholders or where 10% of the shares are owned by at least one hundred shareholders or where companies make a public share offer.

Corporations not coming under the abovementioned rules are called closed corporations (sociedades anonimas cerradas) and are not subject to regulation by the Superintendence of Securities and Insurance.

Companies in the banking sector are regulated by the Superintendence of Banks and Financial Institutions and those in the pension fund sector by the Superintendence of Pension Fund Administrators.

Consumer protection

Law No 18223 protects consumers. Actions under this law may be brought by National Consumer Service and the local Courts of Justice may order a fine or compensation for the sale of goods or services which are sold or advertised on false or misleading grounds. This includes false or misleading information as to quality, price, quantity, weight, origin, measure, contents, etc.

Competition policy

Chilean law protects free competition in order to maintain a fair market.

Actions before a Special Court (Antitrust Court) can be brought by individuals, companies or directly by the National Consumer Service .

Financial system

There are nine local banks (one of which is owned by the State) and seventeen foreign banks. Altogether they administer more than US\$ 100 billion.

Other institutions, such as mutual fund administrators, etc, provide short-term liquidity and investment alternatives.

Share trades are carried out in the Santiago and Valparaiso stock exchanges as well as in an electronic stock exchange, all three of them electronically connected to all of the stock exchanges in Latin America.

Chilean companies are also traded in U.S. stock markets through American Deposit Receipts.

foreign investment

Introduction

It is possible to bring foreign currency through several channels, including the informal currency market, to be contributed to local companies or foreign branches as capital.

Foreign investment

The principal regulation for foreign investment is Decree Law No 600 (the Foreign Investment Statute). This DL guarantees the remittance abroad of profits, when generated, and the remittance of capital after three years.

Under Article 14 investments have rights similar to those under Decree Law No 600, but this primarily relates to loans. The guaranteed capital remittance period is three years. Loans brought in under Article 14 can be converted to equity under terms very similar to Decree Law No 600.

Foreign Investment Statute

Under constitutional principles, the Foreign Investment Statute warrants that foreign investors shall receive non-discriminatory, non-discretionary treatment. Therefore, foreign investors enjoy the same rights and warranties as local investors.

By resorting to DL 600, foreign investors enter into a contract with the Chilean State; the said contract authorizes the making of investments in the project. As this contract involves a legal commitment, it may not be unilaterally modified by the Chilean State or by the enactment of any legal regulation after it has been signed.

The Foreign Investment Committee is the only agency authorized to accept foreign investments under the Statute, and to agree on the terms and conditions of the pertinent contracts.

business entities

Introduction

Chile has no commercial restrictions affecting foreign investors wishing to do business in Chile. A foreign company may also do business in Chile under its own name through a Chilean branch. In Chile, foreign investors may own up to 100% of a company.

The principal forms of business organization in Chile are:

- Corporation.
- General partnership and Limited liability partnership.
- Branch of foreign corporation.
- Joint venture/Association.
- Sole proprietorship.

In practice, most foreign investors use either a Chilean incorporated company or a branch of a foreign company to trade in Chile. Many foreign companies set up in Chile through a Chilean subsidiary in order to achieve limited liability on their Chilean operations and to isolate losses in Chile from the assets of the parent company in the country of origin.

A Chilean subsidiary company will have to comply with all the requirements of Chile company law. A branch, however, will also be subject to the legal requirements of the parent entity in the country in which it is located. It will also be subject to normal Chilean trading regulations.

Corporation

A corporation in Chile is a legal entity regulated by Law 18046.

Open corporations are subject, in addition to corporation law, to the regulations of the Superintendence of Securities and Insurance and must be registered in the Commercial Register.

The cost of forming a corporation consists principally of fees and publication and expenses is approximately US \$1,500 for the drafting of the bylaws, witnessing by a public notary, the publication of an extract of the statutes in the official gazette and inscription in the Companies' Registry. No taxes are due on formation.

Open corporations are legally required to have an independent audit of their financial statements at least annually. They must also maintain records of shareholders and minutes of shareholders' meetings, and must comply with the legal requirements laid down for share issues and for the distribution of dividends to shareholders.

Limited liability partnership and general partnership

Limited liability partnerships and general partnerships are formed by a private agreement or by partnership deed, witnessed by a notary. An extract of the contract is published in the official gazette

and entered in the Companies' Registry .

The only difference between a limited liability partnership and a general partnership is that the responsibility of the partners in a limited liability partnership is limited to their capital contributions, while the partners of a general partnership have unlimited liability.

The costs of forming either of these partnerships are the same as those for a corporation. The administration of these partnerships is not subject to the jurisdiction of any regulatory body.

Branch of a foreign corporation

A branch or agency of a foreign corporation can be established in Chile without any formal authorization.

Law 18,046 sets forth the requirements for the formations of branches of foreign corporations. The only legal requirements are the witnessing, by a public notary, of the statutes (translated into Spanish) of the legal constitution of the corporation in its country of origin, a certificate of the existence of the corporation and a general power of attorney given to the agent establishing the branch. In addition, the agent must declare (in a public deed witnessed by a public notary) the name of the agency or branch, its objectives a knowledge of the legal requirements, the responsibility for meeting obligations in Chile with all the assets of the corporation, and the requirement to maintain easily realizable assets. The deed must also show the amount of capital of the agency or branch, and when and how this capital entered the country and the legal address of the agency or branch.

A summary of these details must be published in the official gazette and be entered in the Companies' Registry.

The only requirement, which affects the operation of the agency or branch, is that it must publish its annual balance sheet in a newspaper in the district where it has its official legal address.

Joint Venture/ Association

The Code of Commerce includes within the terms "asociacion" or "cuentas en participacion" (participating accounts) all agreements between two or more parties or entities whereby one of them engages in activities under his name and takes legal responsibility to account to the other parties to the agreement.

This is a strictly private association and there are no major legal formalities for formation, publication or inscription

Sole proprietorship

Chilean legislation permits individuals to engage in business as a sole proprietor without any major formal requirements except in the case of banking and certain mining activities.

protection of commercial and industrial rights

Introduction

Legislation provides protection for patents, trademarks and industrial models (Decree Law No 958) and other intellectual property. Each right is protected by a different procedure and for varying periods.

Patents

An assignable right of an inventor to the exclusive use of his discovery can be protected for periods of five, ten or fifteen years at the inventor's election. The only exception to this is where an application is made for the grant of a patent in Chile when the inventor is already protected abroad. In this case, the period granted is the remaining period of the foreign patent. Improvements to inventions can be patented with the agreement of the original inventor. The application for a patent is made to the Industry Department of the Ministry of Economy.

Trademarks

The right to the exclusive use of a trademark is given on application to the Registry of Commercial Trademarks at the Industry Department of the Ministry of Economy. The right has an original life of ten years and can be transferred to third parties. The owner of the trademark has the right to extend the period for a further ten years and, if he does not, any person may make an application to register the abandoned trademark.

Industrial models

The right to an industrial model or the title to an industrial privilege can be registered with the Registry of Industrial Models at the Industry Department of the Ministry of Economy. The right is normally for a period of five to ten years at the election of the owner and can be transferred to third parties. Industrial models are deemed to include any form of any industrial, commercial or domestic object or utensil which serves as a model for the production of others and which can be differentiated from existing products by some new element..

Author's copyright

Author's copyright protects rights in literary, artistic and scientific areas, whatever their form of expression. The author's right to receive remuneration for, or permit or prohibit public use of his material is also protected. These rights are protected for Chilean authors and for foreigners resident in Chile. Foreign authors not resident in Chile are protected by international conventions ratified by Chile. These rights last throughout the author's life, that of his wife and unmarried daughters and for up to 30 years after his death. Such rights are registered with the Registry for Intellectual Property under the Directorate of Libraries, Archives and Museums.

Public exhibition of theatrical works, musical compositions and recordings normally requires the payment of a fixed percentage of 1.5% on the gross income. This is collected by the Department of Authors' Rights in the University of Chile

labour and employment — social security

Introduction

Labour legislation in Chile principally covers individual labour contracts, the formation and functions of union organizations, the process of collective negotiation and bargaining, and the judicial procedures for resolving conflicts.

In general, Chilean labour law is based on the freedom of labour without discrimination. Minimum rights are established in favour of the worker.

The responsibility for ensuring compliance with the labour laws is that of the State through the Ministry of Labour and Social Security and its dependent bodies, the Directory of Labour, the Superintendence of Social Security and the Superintendence of Pension Fund Administrators.

Individual labour contracts

The contract which establishes the obligations of the worker and the employer must be made in writing (there are penalties for any employer who does not comply).

The main legal aspects, which affect the content of a labour contract, are:

- the working day: there is a legal maximum of nine hours per day with a maximum weekly total of 45 hours which can be divided over five or six days. Some employees have no limit to the amount of hours, for example, those who work for several employers. As a general rule, Sundays are holidays and, in addition, there are other national holidays. Shift procedures are agreed in industries which have continuous production processes.

- wages and salaries: included in wages and salaries are all benefits which are established in the labour contract. It is normal for travel expenses and other similar benefits to be given as compensation for expenses necessarily incurred in the employment. These additional benefits do not form part of taxable income. The law establishes a minimum monthly wage (currently Ch\$ 120,000 or approximately US\$ 200) with the exception of part time workers, apprentices or trainees and household employees. At present, there is no automatic inflation adjustment, but some recognition of inflation is usually included in the individual work contract.

- holidays: an annual holiday of a minimum of 15 working days is given to all employees who have completed one year of work, with an increase according to the number of years of service (an additional day by every three years, after ten years of work). The employee cannot renounce the right to this holiday, although it can be accumulated for up to two consecutive years.

- termination: the principal reasons for the termination of a labour contract are through common agreement between the parties, the end of the contract period, the end of the work which originated the contract, dismissal or resignation. Either party may give thirty days' notice to terminate the contract. If the employer fails to give this thirty days' notice, an indemnity of one month's pay must be given to the employee. Dismissal or resignation require no other special formalities (except in the

cases of pregnant women and union officials, where court authority is required). Employees with more than one year of services are entitled to one month's indemnity for each year of service. The law establishes certain conditions whereby the employee can be dismissed immediately without indemnity, such as disciplinary faults, lateness, absence, participation in illicit acts, etc. The employee can appeal against dismissal through the courts. The minimum amount of indemnities and other benefits are established by the law, but can be increased.

Safety of the employee and maternity leave

There is considerable legislation to protect the life and health of the employee at work. This protection is based on the Law of Labour Accidents and Professional Sickness, which is part of Chilean social security law.

Pregnant women are allowed six weeks paid leave prior to giving birth and twelve weeks paid leave after giving birth. Companies employing twenty or more employees of whatever age or marital status must install a room apart from the normal working area where female employees can feed their children of less than two years of age and where they can be left when the mother is working.

Union organization

Decree Law No 2756, published in 1979, regulates union activities. Employees in both private and public sectors may form unions without government authorization, but must remain within their own statutes and the law. No employee can be obliged to join a union and cannot belong to more than one.

Unions must be non-profit-making and they cannot receive any form of finance from the companies in which their members are employed. Individual unions may form federations, but these federations may not participate in collective negotiations or collective contracts.

Collective contracts and collective bargaining

A collective contract is one between the employer and one or more unions of the company, or between the employer and a group of workers. Such contracts replace the individual labour contracts for those workers who join a collective contract.

Collective contracts can cover two main areas:

- better labour conditions, safety, holidays, education, health, sanitation, accident prevention, etc.
- better economic conditions, pay, bonuses, etc.

The contract cannot cover management or the administration of the company.

Social security

The Chilean social security system is complex. For long periods social security in Chile was financed by the employers and the State. This had the disadvantages of increasing the fiscal deficit, of being manipulated in favor of different interest groups, of progressively weakening pension benefits and of excluding many employees, especially self-employed workers, from the system.

Old-age pensions and surviving dependents' benefits

A new pension scheme was introduced in 1980 which established the Pension Fund Administrators (AFP) which administer the employee's savings throughout his working life. These savings comprise contributions out of wages and salaries with no compulsory contribution from the employer. The employee can choose one of many private AFPs which are organized as "open" corporations and are subject to the regulatory activities of the Superintendent of AFPs. The Superintendent restricts and monitors the investments available to the AFPs as a means of guaranteeing their profitability and permanence. Employers must retain 10% of each employee's monthly wages or salary in order to finance his pension. This retention is paid to the AFP of the employee's choice.

From the age of 65 (or 60 in the case of women) the pensioner has a right to draw on his personal account for a pension. If the amount saved is below a certain minimum, the government will guarantee the minimum to the pensioner and his or her surviving dependents including unmarried children up to the age of 18 (or 24 in the case of students).

For tax purposes, the amounts retained by the employer (up to certain limits) are not taxed. Independent (self-employed) workers can also join the system under the same conditions.

Health benefits

There are two systems:

- the state system which offers medical care through its health services and the National Health Fund. This system also covers unemployment benefits. It is partly financed by the State, partly by the 7% monthly contributions of those workers who are affiliated to the system and partly by the payments received by the system for services rendered. The price of these services is subsidised by the Ministries of Health and Economy.

- the private system, which is subject to the regulatory control of the National Health Fund. It is effectively financed through health insurance contributions amounting to a minimum of 7% of monthly wages and salaries paid to the Health Plan Institutions (ISAPRES) with which the individual signs a contract establishing the conditions of his health plan.

The contributions (7%) to either system are not taxable, and are retained by the employer for payment to the state system or to the ISAPRES.

Labour accident benefits

An employee who belongs to a pension fund plan (through affiliation with an AFP), is automatically covered against accidents at work, accidents going to and from work, death, illnesses directly resulting from work, etc. The system is financed by monthly contributions by the employer from 0.95% to 3.4% of monthly wages and salaries. The percentage varies depending on the degree of risk involved in the business.

Family allowances

The law establishes family allowances for dependents including children of up to 18 years of age (or 24 in the case of students). These are fixed amounts paid, in the case of employees, directly by the employer and deducted from the contributions which the employer pays to the various social security organizations on behalf of the employee. These allowances are not taxable.

Unemployment benefits

Unemployed workers receive unemployment subsidies. The system is financed by monthly contributions, the employer must contribute with 2.5% and the employee with 0.6% on the monthly wages and salaries.

accounting and audit requirements

Introduction

The distinctions between branches, partnerships and "open" and "closed" corporations are explained in Chapter 5. There is no company law requirement for branches of foreign corporations or partnerships to prepare financial statements, but these will be required for, amongst other reasons, tax purposes and Central Bank requirements for remittance of profits. Chilean audit reports for branches are only required for branches of banks and financial institutions, and insurance companies.

For banks and financial institutions, insurance companies and "open" corporations, the requirements established by the respective Superintendences are extensive and cover: content and classification of financial statements, group financial statements (consolidation), reporting period, responsibility for submission, filing deadlines, publication in newspapers, accounting records and policies, explanatory notes and supplementary information, audit requirements, auditors' qualifications, auditing standards.

The instructions of each Superintendence for the preparation of the financial statements and explanatory notes of the corporations within their authority are issued every year and must be strictly followed to avoid penalties.

In general, the instructions of the Superintendence require compliance with generally accepted accounting principles (as established by Technical Bulletins published by Chilean College of Accountants).

Group financial statements

Where one company holds more than 50% of the equity share capital of another company consolidated financial statements are required. This applies also where one company effectively controls the management of another.

Reporting period

The Chilean taxation authorities require that all tax declarations are presented with the relevant financial data as at 31 December each year.

Responsibility for submission

Law No 18046 places on the Board of Directors the responsibility for the content, presentation and submission of financial statements to the Superintendent and to the shareholders of "open" corporations, banks and financial institutions and insurance companies.

Publication in newspapers

In accordance with Law No 18046 audited annual financial statements (and consolidated financial statements, if applicable) must be published in a major newspaper between ten and twenty days before the annual general meeting convened to approve them.

Accounting records

Companies are required by law to keep accounting records, which must be stamped by the taxation authorities. The law authorises the use of mechanized or computerized accounting systems for keeping these compulsory records.

If the tax declaration is not adequately supported by proper accounting records and documentation, the taxation authorities may assess income on a percentage of either the capital invested in the business or on sales. The accounting records must be in Spanish and normally must be kept in Chilean pesos. However, the taxation authorities can authorize the maintenance of such records in foreign currency where the capital or a substantial portion of the company's transactions are in a foreign currency. In any event, the tax declaration must be presented in Chilean pesos.

Audit requirements

All banks and financial institutions, insurance companies, "open" corporations, pension fund administration companies and health plan institutions must present annual audited financial statements at 31 December to their respective Superintendence.

The Central Bank of Chile requires audited financial statements to permit the remittance of dividends abroad. If an interim dividend is proposed, the Central Bank requires a certificate from the independent auditors who performed the audit immediately prior to the proposed remittance date or, if the company has not had a recent audit, the Central Bank will require a full audit at a date reasonably close to the remittance date.

accounting principles

Introduction

Accounting principles in Chile have been established through the Technical Bulletins of the Chilean College of Accountants. Technical Bulletins cover all major areas and are similar in content to the Statements of Standard Accounting Practice in the UK and the Statements of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants.

The accounting profession has generally been very successful in self-regulation in Chile. In addition, the accounting profession in Chile has been strongly influenced (and supported) by the Superintendence.

Price-level restatements

As a result of high annual inflation during the early 1970's, detailed and far-reaching accounting principles were introduced, followed by mandatory legislation (Decree Law No 824), to establish comprehensive inflation-adjusted accounting. Although inflation has been reduced and has remained stable at around 2 – 3% over recent years, it is maintained as a permanent and compulsory principle in Chile.

Auditors' qualifications

To be appointed as an auditor of one of the corporations or entities under the jurisdiction of one of the Superintendents, an individual must be an accountant (or a partner of an accounting firm) which is registered with and approved by the Superintendence of Securities and Insurance or Superintendence of Banks.

Auditing standards

Auditing standards are set by the Chilean College of Accountants. These standards are wide-ranging and compliance is obligatory. Where no specific standard has been established for a particular situation, the International Auditing Guides of the International Federation of Accountants (IFAC) apply.

the tax system

Introduction

Chile has a sophisticated system of direct and indirect taxation which is subject to changes largely dependent on the requirements of government spending

Taxes

The principal Chilean taxes are:

- Income tax: This is levied on a progressive scale on an individual's total income. Since January 1984 the First Category Tax of 15% (17% from 2004) levied on corporate income has been treated as a tax credit for the shareholder. The progressive scale income tax levied on individuals with income originating from sources other than employment, is called the Complementary Global Tax.

Persons not resident in Chile pay an Additional Tax of 35% which exempts them from the progressive scale Complementary Global Tax. Foreign corporations pay an Additional Tax on their Chilean source income when it is remitted abroad.

- Value-added tax (VAT): this is levied on sales, imports and services (and similar transactions) at 19%. A special rate of 50% is levied, principally, on luxury and non-essential goods. An additional tax, at different rates, is levied on sales of liquors, wines, beverages and automobiles.

- Stamp taxes: are levied on credit operations.

- Inheritance and gift taxes: these are levied on certain inheritances, gifts and donations above an exempt amount, on a progressive scale rising to a maximum of 25%.

- Real estate tax: this is levied on most real estate at an annual rate of 1.4% on the fiscal valuation.

- Manufactured Tobacco Tax: this is levied on cigars, cigarettes and tobacco at a rate of 55.4% on their consumer sales prices.

Basis of taxation

All persons resident in Chile are taxed on their worldwide income, with the exception of foreigners resident in Chile who are subject to tax only on their Chilean source income during their first three years in Chile.

Non-residents are subject to tax only on their Chilean source income at 35%. This rate also applies to amounts paid to persons or entities not resident in Chile for the use of trademarks, patents, formulae, technical assistance and similar facilities. However, this rate drops to 20% in the case of remuneration paid exclusively to foreign individuals in connection with scientific, technical, cultural and sporting activities.

The tax system provides tax benefits for certain industries and incentives are available in some areas

of the country. These are:

- tax-free zones in the first and twelfth regions, in the extreme north and south of the country.
- regional incentives for those taxpayers in the first, second, eleventh and twelfth regions.
- forestry development incentives.
- merchant marine development incentives.
- export development incentives.

Corporate taxable income is based on taxable earnings with the exception of agricultural, real estate and the transport industry, with revenues under certain amounts depending on the activity, which are taxed on a deemed income based on asset values. In addition, there are simplified requirements for small businesses with low tax liabilities.

Administration

The administration and procedural regulations are contained in the Tax Code. The Internal Revenue Service (Servicio de Impuestos Internos – SII) is responsible for the administration of taxes throughout the country and, in addition, carries out certain judicial functions in the first instance.

The tax year is the calendar year. Taxpayers with income other than from employment must make an annual declaration of tax and pay any tax due before 30 April following the end of the tax year.

The SII has considerable access to information from third parties and extensive powers to call for books, records and documents which may have a bearing on a taxpayer's affairs.

taxation of companies

Introduction

Taxes by categories: The tax system levies tax on annual income depending on its source. First Category Tax is levied on income coming from invested capital (including companies). This is treated as a tax credit to the individual shareholder.

Tax on non-deductible expenses: Because income which suffers the First Category Tax has the Complementary Global Tax levied only at the moment of withdrawal or remittance, certain types of expenses paid, which are not deductible for tax purposes, are deemed to be withdrawals. In the case of corporations, these expenses are considered as remittances to the shareholder, but a Special Tax at a rate of 35% is imposed on these amounts in the company's hands to replace the Complementary Global Tax levied on the shareholder.

Tax year

Tax year coincides with the calendar year.

Payments of tax

The First Category Tax must be declared and paid within 120 days of the year-end, that is, by 30 April each year.

Companies must make monthly payments of tax on account of the annual tax due. This is calculated as a percentage of gross monthly income and is initially 1 %. The percentage is then calculated annually based on the actual percentage of the previous year.

Calculation of taxable income

Taxable income is calculated on the basis of earnings determined for accounting purposes with the following adjustments:

Gross income: The law exempts certain types of income such as income from Chilean subsidiaries, dividends and others.

Expenses: The following expenses are expressly non-deductible for tax purposes: a) The acquisition, maintenance, depreciation or cost of exploitation of goods not used for the company's stated business objectives, b) Acquisition, rental, maintenance or depreciation of cars, station-wagons and similar vehicles, c) Purchase of fuel, lubricants and insurance for vehicles described in b above, d) Expenses and costs incurred in generating income which is tax exempt, e) Bad debts provided that all recovery procedures have not been exhausted

Prior-year tax losses, without time limit, may be deducted from taxable income, or carried forward.

Inflation adjustments (monetary correction or price-level adjustments)

Companies must deduct from profits the statutory inflation adjustment of shareholders' equity at the beginning of the year, together with those inflation adjustments on increases during the year. These inflation adjustments are computed by reference to the Consumer Price Index. Also deductible, are inflation adjustments or exchange differences on liabilities in adjustable units or in foreign currency.

Adjustments for inflation (as established by law) made to the value of assets and to reductions in shareholders' equity during the year must be included in taxable income. Inventories are adjusted to the replacement cost and the resulting adjustment must be included in taxable income.

Reinvestment of profits

Any profits of an entity (except corporations), which are withdrawn by the owners and invested in other entities, are not subject to the Complementary Global Tax or Additional Tax as long as the investment is not distributed by the company in which the reinvestment is made.

Acquisition, reorganisation or division of companies

Following the acquisition, reorganisation or division of a company, any income or accumulated profit which is not withdrawn or distributed or which remains in the surviving entity does not give rise to a charge to Complementary Global Tax or Additional Tax on the owner or shareholder. In the case of mergers, if the acquiring company has tax losses and the absorbed company has accumulated tax profits, the acquiring company is entitled to recover the income tax paid on the said accumulated profits up to the amount of its accumulated losses.

International double taxation relief

Chilean tax law gives some relief to avoid or reduce double taxation in accordance with international agreements.

taxation of foreign companies

Foreign corporations and other entities which have any kind of permanent branch, office, agency, etc. in Chile are subject to the First Category Tax at 17% on their Chilean sources and are liable to the Additional Tax at 35% whenever the foreign corporations remits any profit abroad, with a credit of First Category Tax paid.

Representative offices are treated in the same way as agencies.

Chilean companies with foreign shareholders must withhold the Additional Tax at 35% when they remits any profit abroad to those shareholders, with credit of First Category Tax paid.

Capital reductions or withdrawals are not subject to Additional Tax if that capital (or other accumulated funds) has not come within the definition of income..

taxation of individuals

Introduction

Individuals are subject to tax as follows:

- Second Category Individual Tax (Unique tax) which taxes employees on their salaries and wages (after deduction of social security contributions) and which is withheld by the employer and paid to the Revenue Service.
- Complementary Global Tax: which is levied on all income received from whatever origin on a distribution of profits basis. This tax must be declared and paid annually.
- Additional Tax, which is levied on foreign individuals who do not have residence qualifications in Chile on their Chilean source income remitted abroad or otherwise withdrawn.

Residence and domicile

Chilean law defines a resident as an individual who is physically present in Chile for six months in any calendar year or more than six months in total in a two-year consecutive tax period.

Domicile is the country, which an individual regards as his permanent home. This may be different from the country in which he is resident.

Every individual resident in Chile must pay taxes on his worldwide income. However, a foreign individual who has residence status in Chile is liable to tax only on his Chilean source income during the three years from the date of his arrival. This period can be extended on authorization from the SII.

Income from foreign sources can be assessed on the amount actually received or on the accrued amount.

Individuals not resident in Chile are subject to tax on any Chilean source income.

Chilean source income is defined as that arising from assets situated in Chile, or from activities carried out in Chile, royalties, use of trademarks and any other income derived from industrial or intellectual property in Chile, from shares in a corporation established in Chile or from any rights or interest in general or limited partnerships established in Chile.

Second Category Individual Tax

Second Category Individual Tax is levied on an employee's salary, wages, prizes, bonuses, profit sharing, etc., and on any other remuneration for his/her services. The tax is progressive, with 40% as the highest rate. Social security contributions are deductible.

Global Complementary Tax

Global Complementary Tax is levied on all individuals resident in Chile. It is also levied on the estates of deceased persons and on public servants working outside Chile.

Foreign diplomatic and Consular officials are not subject to this tax as long as reciprocal arrangements exist for Chilean public officials in the respective foreign countries.

The taxable base for this tax is all income received, including that which has been subject to the Second Category Individual Tax. In this case, the Second Category Individual Tax is treated as a tax credit.

Other deductions are allowed from the income base as First Category taxes paid on income included in taxable income, real estate taxes, additional deposits for pension contributions

Additional Tax

This tax affects:

- Individuals who are not resident in Chile on their total Chilean source income which is remitted abroad or otherwise withdrawn.
- Individuals who are not resident in Chile who are shareholders in Chilean corporations - on their share of total profits distributed.
- Individuals who are not resident in Chile who receive royalties or remuneration for the use of trademarks, patents, formulae, technical assistance and other similar services, non-bank interest, etc., for services rendered abroad.
- Chileans resident abroad who are not domiciled in Chile.

The general rate is 35%, but is reduced to 20% when dealing exclusively with foreign individuals who work exclusively on scientific, technical, cultural or sporting activities in Chile and where services are rendered abroad for technical assistance or engineering.

In the case of royalties or technical assistance, which are considered by the tax authorities as nonproductive or non-essential for the economic development of the country, the rate can be as high as 80%.

If the income remitted or withdrawn has suffered First Category Tax, a tax credit of 17% is allowed against Additional Tax.

estate and gift taxes

Introduction

Gifts and entitlements arising on the death of Chilean residents are subject to Inheritance Tax (Law N° 16.271). In the case of inheritances, the tax payable is based on a valuation of assets by an official appraiser nominated by the Courts of Justice.

Liability to this tax depends upon the donor of the gift or the deceased being resident in Chile.

Basis of taxation

The assets subject to the tax include both assets in Chile and those situated abroad.

The inheritances of foreigners domiciled in Chile are taxed on foreign assets only when those assets have been acquired with resources obtained in Chile. Any inheritance taxes paid abroad on assets situated abroad are treated as a tax credit in Chile.

Expenses relating to terminal illness, funeral expenses, legal expenses and fees are deductible from the taxable inheritance received, as are inherited debts and the spouse's portion of any inheritance.

indirect taxes

Value added tax

Value added tax (VAT), levied at a flat rate of 19%, is the main indirect tax and is the largest contributor to the fiscal authorities (52% of the total taxes in 2004). It affects all goods sold in the course of trade and all services relating to business activities of First Category taxpayers. Professional services and independent personal services are not subject to VAT.

Taxpayers selling goods and rendering services in the course of trade have the right, generally, to a tax credit for tax suffered on acquisition of goods and on payment for services used. This credit can be offset against the tax due on sales or services rendered.

Imports are subject to VAT whether or not the sale is for commercial purposes.

A tax credit for VAT is not available when:

- VAT suffered relates to operations not affected by VAT.
- VAT suffered relates to operations exempt from VAT.
- VAT suffered relates to operations, which have no direct connection to the seller's activity.
- VAT suffered relates to the acquisition of cars, station wagons and similar vehicles or to fuel, lubricants, spares, and repairs to those vehicles.

Stamp taxes

Stamp tax is levied on credit operations, at a rate of 0.134% of value for every month or fraction thereof between the issue of the document and its due date, with a maximum of 1.60%.

local taxation

Chilean legislation has no local income taxation system in addition to the general system. However, the general taxation system allows for certain regional incentives, exemptions or subsidies for activities performed in the extreme regions of the country.

