

# Chile

## Legal Provisions

Compiled by:

### Embassy of Switzerland in Chile

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#### GENERAL REMARKS

Chile has a broad range of free trade agreements in force, whilst further treaties are signed and waiting to be ratified and others are still under negotiation. Chile has active trade agreements with, among others, the USA, EU, China, **EFTA**, MERCOSUR (with Chile as an associate member), Korea, Japan, Canada, India, Central America, Mexico, Colombia, and Peru.<sup>1</sup>

For a fully detailed copy of the **Free Trade Agreement between the EFTA and Chile**, as well as all annexes and the **bilateral agriculture agreement between Chile and Switzerland**, please visit:

<http://secretariat.efta.int/free-trade/free-trade-agreements/chile.aspx>

An **investment protection** agreement between Chile and Switzerland entered into force in May 2002.

A **double taxation** agreement between Switzerland and Chile was signed in April 2008 and came into force on 1<sup>st</sup> of January 2011.

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<sup>1</sup> All trade agreements of Chile are available under [www.direcon.cl](http://www.direcon.cl)

## CUSTOMS

### Overall

Chile applies a MFN tariff of 6% on imports. For some agricultural products, Chile maintains a price band system.<sup>2</sup>

Since 1997, import procedures have been streamlined with, amongst others, the introduction of an electronic processing and payment system, and the abolition of the requirement to submit the import declaration to the Central Bank.

Chile's customs regime is based on the Customs Law.<sup>3</sup> All imports must be accompanied by an import declaration approved by the customs authorities.

The Constitutional Organic Law of the Central Bank of October 10, 1989 (Law No 18.840) establishes freedom of importation. However, Chile operates import prohibitions for the protection of human health, animal and plant life, and the environment, in compliance with domestic legislation or international commitments. Pursuant to Article 21 of Law No. 18.483 of 28 December 1985, Chile prohibits the import of used vehicles, which are not of the same year, for environmental reasons. Exceptions include ambulances, cement-making and fire-fighting vehicles, armoured cars, mobile homes, street-and highway-cleaning vehicles, and prison vans.

Specific import procedures apply to Chile's two free zones, the free zone of Iquique (ZOFRI) in the northern tip (Region I) of Chile and the free zone of Punta Arenas in the southern tip (Region XII) as well as to goods in transit. Foreign goods sent to free zones must be accompanied by a Request for Shipment to Free Zones.

Goods in transit must be accompanied by a Declaration of Transit and by the International Freight Document – Transit Declaration; the latter is a LAIA<sup>4</sup> document. Goods for exhibits (e.g. watches) or temporary stay (e.g. racing horses) may enter into Chile with an ATA Carnet. The ATA Carnet is issued by chambers of commerce in Switzerland and is valid for one year.

Verification of the information provided in the declaration and physical inspection of the goods to be imported is based on the principle of reasonable doubt. The National Customs Service has overall responsibility for the administration of import procedures and the collection of all foreign-trade-related taxes (i.e. value-added tax).

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<sup>2</sup> Such a system is applied for various edible vegetable oils, sugar, wheat, and wheat flour. This system is intended to reduce the impact of international price fluctuations on internal prices; specific duties are based on reference prices added to the ad valorem rate to bring the import price up to the reference price. If the import price exceeds the reference price, rebates lead to a reduction of the applied tariff.

<sup>3</sup> Decree Law No 2/97 of 12 November 1997, Ministry of Finance

<sup>4</sup> Latin American Integration Association

Importers must pay VAT of 19% based on the C.I.F.<sup>5</sup> value (+ duties) at the point of entry.

Imports valued at more than USD 500 must be processed by a qualified and registered customs agent (“agente de aduana”). A full list of registered customs agents including contact details is provided at the website of the Chilean National Customs Service (=Aduana) under [www.aduana.cl](http://www.aduana.cl) (English and Spanish).

The website of the Chilean National Customs Service also provides trade statistics, information on import procedures, international economic agreements, and information for travellers and immigrants.

### **Agriculture and livestock**

For imports of meat, seeds, plants, vegetables, soil, and other plant and animal products, special regulations need to be followed and in some cases permissions are necessary.

These regulations are strictly overseen and administrated by the government’s Agriculture and Livestock Service (SAG): [www.sag.cl](http://www.sag.cl) (Spanish). This website contains information on phytosanitary requirements of different countries as well as on import requirements for agricultural goods and authorization forms for imported agricultural goods. The Free Trade Agreements with the European Union and the USA, as well as the Agriculture and Livestock Service Organic Law are in English. Detailed information on plant, fruit and vegetable import rules, and corresponding forms, are available on this website.

## **CURRENCY REGULATIONS**

The exchange rate of the Chilean Peso CLP is determined daily by the market under a floating system. The Central Bank maintains very few foreign-exchange controls. Some operations, such as the remittance of profits under the Foreign Investment Law, must be made through authorized banks. For many other transactions, foreign-exchange houses can be used. Contracts, for example employment or hiring contracts, are often concluded in “Unidad de Formento” (UF) which is an inflation-adjusted currency. The UF can make a significant difference in a business plan.

Foreign-exchange houses cater to the needs of small businesses, individuals, and tourists and operate after 2 pm when banks close.

According to the Chilean Central Bank’s regulations ([www.bcentral.cl](http://www.bcentral.cl)), all transactions, from and to foreign countries exceeding USD 10.000, have to be reported to the Central Bank.

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<sup>5</sup> C.I.F.: cost, insurance and freight  
Switzerland Global Enterprise – Legal Provisions  
3/9

## **REGISTRATION PROCEDURE FOR PRODUCTS**

Pharmaceutical products, food for medical use, and cosmetics must be authorized and registered by the Public Health Institute: [www.ispch.cl](http://www.ispch.cl) (Spanish). This website has information on norms, registered products and provides registration forms.

Food products for medical use must obtain an authorization for sale (resolución sanitaria) from a regional health service when a product is introduced in Chile. The authorization can take between 2-3 weeks to be issued and requires the payment of a small fee. Any regional authorization is valid for the entire country, but the same procedure must be followed for each new shipment. After 3 shipments and a special analysis by the health service, an authorization allowing the product to go on sale more quickly can be obtained. For further information: Health Service of the Metropolitan Region of Santiago: [www.asrm.cl](http://www.asrm.cl) (Spanish). This website has information on health, on procedures for registration, and provides the corresponding forms.

Industrial patents and trademarks are issued and registered by the National Institute of Industrial Property: [www.inapi.cl](http://www.inapi.cl) (Spanish). This website provides information on the National Institute of Industrial Property, registered patents, registered trademarks, procedures, and statistics.

## **STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS**

Decree No 977 outlines, amongst others, the regulations in force for packaging, labelling and storage of food for human consumption. It states that food products must have labels in Spanish, indicating ingredients, weight, date of manufacturing, and country of origin. The “Instituto Nacional de Normalización” (National Institute of Normalization) sets standards and provides information on standards and regulations by product category: [www.inn.cl](http://www.inn.cl) (Spanish).

## **TAXES**

Taxes are notoriously complex. Any Swiss company or individual wishing to do business in Chile should seek the advice of a tax expert (specialized lawyer or accountant). Being a centralized state, Chile has no regional tax authorities. The Agreement on Double Taxation between Chile and Switzerland was signed in 2008 and entered into force on January 1<sup>st</sup>, 2011.

The general tax situation can be briefly outlined as follows:

## Direct taxes

- Corporate (“First Class”) tax was set at 20% of taxable income due to the reconstruction after earthquake in 2010 and has remained at this level ever since.
- An additional 35% tax must be paid on the remittance of profits or dividends abroad. However, a tax credit equivalent to the Corporate (First Class) tax rate is applied and deducted. Thus a foreign investor will pay a 15% additional tax on the tax base (tax base = total base amount of income to be remitted, because the 20% corporate rate was already paid as “First Class” tax).
- If profits are kept in Chile, the additional tax is not applied. If remittance is to a natural person in Chile, for example an individual shareholder, then progressive personal income tax ranging from 0 to 40% is applied.
- Personal income tax is progressive. There are, at present, eight tax bands ranging from 0 (tax exempt income) to 40%.
- Foreign companies investing in Chile under Decree Law 600 (D.L. 600) can also decide to pay taxes at a fixed rate of 42% of taxable income for 10 years, thereby avoiding possible tax increases during this period.
- The tax year ends in April. Companies pay taxes on a monthly basis via a “Monthly Provisional Payment” calculated as a percentage of monthly sales. The annual corporate tax due is calculated at the end of the tax year and adjusted by payments already made.

## Indirect taxes

- VAT: 19%.
- Additional taxes are imposed on
  - luxury goods, for examples as articles of gold, platinum and ivory, diamonds or jewellery of 15%
  - liquids (alcoholic, non alcohol and similar products) in the range of 13 to 27 %
  - tobacco (up to 65%)
  - fuels. The latter is calculated according to the volume.

More information and detailed lists for all products affected by the additional taxes can be found under [www.sii.cl/portales/inversionistas/imp\\_chile/imp\\_chile.htm](http://www.sii.cl/portales/inversionistas/imp_chile/imp_chile.htm).

- At municipal level, some taxes such as licenses to operate a business are levied.
- Property and inheritance taxes.

The Internal Tax Service [www.sii.cl](http://www.sii.cl) (Spanish) contains relevant information on tax law, how to register for taxation purposes, and how to declare taxes.

## COMMERCIAL LAW AND SETTING UP COMPANIES

In order to carry out any business activities in Chile apart from simply exporting, it is necessary to establish a local legal presence.

Companies can be set up in several ways, the most common being:

- Corporations (“Sociedad Anónima”- “S.A.”) either open (“abierta”) or closed (“cerrada”). Corporations are overseen by the Superintendence (regulator) for Securities and Insurance - the SVS- if they are “open”. Corporations must be “open” if they have more than 500 shareholders, or 10% of capital belongs to 100 or more shareholders.
- Limited Partnerships (“Sociedad de Responsabilidad limitada”)
- Branch of a foreign corporation

All companies set up in Chile, regardless of foreign participation, are considered Chilean. The setting up of companies needs to be done by a lawyer and the formal establishment of a company can be done fast.

As with all forms of a company, the tax authority requires that at least one legal representative of the company has a Chilean registered address. Furthermore, in practice banks often ask for one of the shareholders to have a Chilean registered address.

When doing business with business partners, it is common for companies to use a private credit history checking service called “DICOM” [www.dicom.cl](http://www.dicom.cl) to see if business partners are sound.

Please note that contracts and important documents must often be legalized through a notary.

For further information please contact a local lawyer.

The Embassy’s lawyer of confidence is:

Mr. Felipe ERNST  
Figueroa, Valenzuela & Cía. Abogados  
Moneda 970, Piso 5  
Santiago  
E-Mail: [fernst@fivalabogados.cl](mailto:fernst@fivalabogados.cl)  
Tel: +56 (0)2 2696 01 71  
Fax: +56 (0)2 2696 38 59

Please note that the Embassy cannot provide guarantees as to the correctness of information provided by third parties.

It may also be useful to visit the website of the Superintendence for Securities and Insurance: [www.svs.cl](http://www.svs.cl) (Spanish and English).

## **PROMOTION OF INVESTMENT**

### **Legal basis**

D.L. 600 provides special conditions for foreign investments ranging from USD 250.000 for technology and machinery, and from USD 1 million for other investments. The Decree:

- assures all investors, regardless of their nationality, "to be treated by the State and its bodies without discrimination",
- allows foreign investors to own up to 100% of a Chilean-based company, and places no time limit on property rights,
- allows investors to 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,
- guarantees investors the right to repatriate capital one year after its entry and to remit profits at any time,
- safeguards access to freely-convertible foreign currency without limits for both capital and profit remittances (after taxes are paid),
- guarantees the right of access to the formal exchange rate market (for Non-D.L. 600 investors<sup>6</sup>, the Central Bank can restrict access),
- assures that the repatriation of all capital invested is devoid of any tax, duty or charge up to the amount of the original investment (only capital gains over that amount are subject to tax).

Foreign investors may invest in any sector in Chile, except domestic shipping transport and national security related areas.

Apart from D.L. 600, Foreign Direct Investment (FDI) can also flow into Chile under "chapter XIV" of the Central Bank's foreign exchange regulations. The foreign investor proceeds with banks to transfer his capital and the banks declare the inflow to the Central Bank.

## **INSTITUTIONS**

The Chilean Foreign Investment Committee is the main official agency for attracting foreign investment. It represents the Government in dealing with foreign companies as part of the Foreign Investment Statute (D.L. 600). It also directly oversees foreign companies on the basis of D.L. 600:

[www.foreigninvestment.cl](http://www.foreigninvestment.cl) (Spanish and English). This website informs about opportunities to invest in Chile, the macroeconomic situation of the country, the regulations and procedures applied to FDI, bilateral investment treaties as well as statistics on FDI and trade.

The “Corporación de Fomento de la Producción” (CORFO), [www.cofro.cl](http://www.cofro.cl) (Spanish), is the public Chilean economic development agency, which:

- supplies companies with long-term credits for investments, supporting export activities and the development of micro-credits and investing in higher education,
- supports the modernization of companies, the certification process to international norms (ISO), the specialization for foreign markets, the networking between big companies and subcontractors and the development of clusters,
- finances technological innovations for companies and supporting the creation of new companies.

### **ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW**

Swiss nationals with a valid passport do not require an entry visa for tourism and are allowed to stay up to 3 months.

A visa is, however, required to undertake remunerated work; it is usually issued by a Chilean consulate abroad in cooperation with the Chilean Foreign Ministry in Santiago “subject to a contract” allowing the holder to work only for the employer who supports the visa application.

For foreign companies sending executives to begin business operations in Chile, the most suitable visa is a one-year “temporary” visa. As mentioned before each business activity requires establishing a local legal presence even just for importing. At the beginning many companies do this through a local partner. However, an own permanent presence in Chile is recommendable.

If individuals or companies have any doubts about immigration and visa issues, they should contact the Chilean Embassy in Bern before setting out on any business trip: <http://chileabroad.gov.cl/suiza/en/> (English and Spanish).

In December 2010 an agreement on trainees came into force between Switzerland and Chile to improve access to the respective labour market for 50 young professionals per year. This agreement allows a working exchange for a maximum of 18 months to young people under the age of 35.

The Chilean Law requires that at least 85% of a company’s employees are Chilean citizens.

The employees are allowed to set up a “sindicato” within the company which can vary from small works councils to large trade unions.

For further information:

- Federal Office for Migration  
<http://www.swissemigration.ch/laender/laenderliste/00034/index.html?lang=de> (German, Italian, and French)
- Department for Foreigners and Migration  
The Chilean Interior Ministry, [www.extranjeria.gob.cl](http://www.extranjeria.gob.cl) (Spanish and English), provides information on visas, work permits, and other issues.
- Ministry of Labour [www.mintrab.gob.cl](http://www.mintrab.gob.cl) (Spanish). This website informs about labour rights, procedures for first employment, retirement, and unemployment.

## SOURCES OF INFORMATION AND LINKS

Apart from the many links already mentioned, the following could also be helpful:

- Ministry of Justice: [www.minjusticia.cl/](http://www.minjusticia.cl/)
- PricewaterhouseCoopers Chile: [www.pwc.com/cl](http://www.pwc.com/cl) PwC offers publications on doing business in Chile (in English).
- Library of Congress: [www.bcn.cl/](http://www.bcn.cl/). The website contains detailed information on current laws (including legal texts), as well as information on legislation currently going through Congress.

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