

I. Introduction

i. Chile. A Leader in Latin America

Chile is and has been the most stable economy in Latin America during the last 20 years.

Consequently Chile is number 15 in the international ranking of the “best place to do business”, one step below Germany which is number 14 (www.eiu.com, Economic Intelligence Unit).

Chile’s regional leadership is not only based on macroeconomic figures.

The main reason for this difference is “institutional”.

The “institutions” of the political and legal systems of Chile are stable and “transparent”.

“Transparency” means: (i) that the operational norms of the institutions are clearly defined; (ii) These norms are equally applied to all subjects and enterprises; (iii) There are no changes of said norms during performance of daily business operations.

The Chilean regulatory system is highly transparent and complies with the principles of the “estado de derecho”- of a “traditional constitutional state”. From the private law point of view this mainly means that a substantial respect to private property law and free hiring has been established.

Thus, Chile ranks number 25 in the world wide transparency ranking and is number one in Latin America. (www.transparency.org, Transparency International).

All this makes Chile the most competitive country of the region. During 2010 Chile ranked 28 in competitiveness worldwide and Japan was number 27 (www.imd.ch, Institute for Management Development).

i. Chile. A Gateway to Latin America and the world.

Latin American economies have outgrown developed economies in recent years, driven by sound economic policy-making, investment, competitiveness and corporate governance reform; buoyed by blossoming domestic economies, sustainable commodities and industrial export base which serves both the developing and developed world.

A 600 million-population market with a vibrant growing middle class is spawning demand and in turn corporate growth.

Globally competitive Latin American companies are starting to expand abroad. And, perhaps most important, stable legal systems with well-developed institutions have been established, fostering a favorable climate for investment.

Robust economic growth coupled with domestic stability has opened the door to the immense opportunities of the “new” Latin America.

In this context, Chile appears as the best “intelligent base” for market entry to this region because, among many other reasons, Chile is deeply integrated in the regional and world economy through Free Trade Agreements and Investment Cooperation Agreements with countries which economies jointly represent more than 88% of the world GDP.

II. Market Access

There are different ways to access the Chilean market.

In Chile all foreign entities entering the country to carry out any type of “trade activities” or “investment activities” are considered “foreign investors”.

In practice, many times “trade” is followed by “investment”. In this case, in general, investment is made through business related to “trade activity”.

The election of a legal form of organization or a determined type of company will depend on the strategy and objectives of the business which the investor intends to set up.

A foreign investor may set up business in Chile through representatives, agencies, subsidiaries and companies.

The incorporation of a company in Chile is one of the most common mechanisms to set up a company in Chile.

1. Which alternative mechanisms are available to do business in Chile

Business may be carried out in Chile by:

- Appointing a representative;
- Establishing some type of legal presence in Chile.

2. How to appoint a representative in Chile?

An investor, either an individual or legal entity, with no domicile or residency in Chile may act through a representative. The representative may be a legal entity or an individual with residency in Chile.

The representative shall act on behalf and at foreign investor's own risk, pursuant to an agency contractor by "power of attorney" duly signed by both parties.

3. What alternatives are available to have a legal presence in Chile

In general, a foreign enterprise may set up in Chile its legal presence by using the following mechanisms:

- Establishing an agency or a subsidiary of the foreign company (the "Agency")
- Setting up a company.

3.1. What is an Agency of a Foreign Company?

Under Chilean Law, an agency is the legal extension of a foreign company.

3.1.1. Which are the advantages and disadvantages of an Agency?

Among its advantages, we may highlight that it may be used to explore the market, due to the fact that it has a simpler operational structure.

The following are the disadvantages of setting up an Agency:

- It cannot carry out economic activities or business as such, but only explore market conditions.
- It is not a legal entity separated from the parent company and is considered to be only an extension of the holding company. Consequently, the parent company is liable for any responsibilities generated through actions from the Agency, even with goods which are not physically in Chile. Nevertheless, the Chilean creditors shall have preference on the goods in Chile for payment in the event of bankruptcy or insolvency.

Furthermore, the procedures to set up an Agency are rather complex, since it includes the translation of the original documents of the parent company and other procedures which normally are not applicable to a normal company.

3.1.2. What documents are required to establish an Agency or Subsidiary?

To form and set up an agency or subsidiary it is necessary to appoint an agent and to register the agent with a Public Notary in Chile.

The foreign company shall grant the agent a general power of attorney to perform business activities in Chile on their behalf.

The agent shall legalize and file with a Public Notary all legal information relating to the foreign company, such as the certificate of incorporation of the company, the

by-laws of the company, the general power of attorney granted to the agent, and a statement from the foreign company regarding the assets assigned to cover eventual liabilities in Chile, the capital assigned to the Chilean subsidiary and under which conditions the foreign company shall enter it to Chile, and furthermore the domicile of the main agency in the country, among any other information that might be required.

Finally, an extract of the notarized documentation shall be filed with the Trade Registrar of the Real Estate Property Registry within 60 days starting as of the date, which shall also be published in the Official Gazette within the same period.

3.1. What types of Companies exist in Chile

The most widely used business structure in Chile is the company.

The company forms a legal entity, different to the individually considered partners.

Different forms of companies are set up, basically divided into partnerships and corporations (structured by capital). The most commonly used are detailed as follows:

3.2.1. Limited Liability Company(LLC)

3.2.1.a. What is a limited liability company “LLC”?

The LLC are partnerships whereas their partners limit their responsibilities to the amount of their contributions or to a larger amount defined by them, as long as this is registered in the company's deed of incorporation.

Limited liability company's setup is governed and ruled by Law Decree 3.918 of 1923.

3.2.1.b. Who is entitled to become a partner of a LLC?

The partners may be Chilean or foreigners, individuals or legal entities; the limitation is the number, not less than two, but shall not exceed more than fifty.

3.2.1.c. Is there a minimum capital required?

No minimum capital is required, although normally the Internal Revenue Service (IRS) will demand sufficient capital to set up the company in Chile as guarantee for the creditors.

3.2.1.d. How to contribute with capital to a LLC

The capital shall be in Chilean Pesos. Nevertheless, with authorization from the IRS, contributions may be established in foreign currency (regularly in US dollars).

The capital may be contributed in money, in other type of goods, inclusively work, which should be duly valued in the company deed.

3.2.1.e. How to define the aim or purpose of a LLC

The aim or purpose of a LLC can be wide and general.

There is no obligation to detail objects or purposes or “business activity” of the company regarding specific products or special services from the company.

Neither does a relation exist between the “object” of a company and its “registered capital” nor a relation between the “object” of the company and the licenses required for this purpose.

3.2.1.f. Licenses required for a LLC

In general a company in Chile does not need licenses to operate, but only for certain very special business areas, such as for banking and insurance activities, for private social securities, for generating and transmission and electrical distribution, and in general all “public utilities”, etc.

From an operational point of view, it is necessary to obtain a “local commercial license”, which really is a type of tax charged on economic development activities within the territory of a municipality.

3.2.1.g. How to administrate a LLC

The administration of the company can be freely defined by the partners.

The administration of the company may be carried out either by the partners individually or jointly or through a representative, even a “board” may be created.

3.2.1.h. How to choose a name for the LLC

The name of the LLC may be selected from two different options.

- The name of one or more partners
- A reference to the company object

In both cases “Limited” should be added at the end, otherwise without mentioning Limited it may be understood that the partners will respond unlimited, joint and severally to company liabilities.

3.2.1.i. What documents are required to establish an LLC?

To set up a LLC the following stages are to be completed:

- Public Deed granted by a Public Notary
- Inscription of an extract of the deed at the Trade Registrar of the Real Estate Property Registry
- Publication of the extract in the Official Gazette.

The registration and publication of the extract shall be made within 60 days as of the date the incorporation deed has been signed.

3.2.1.j. Which are the advantages and disadvantages of a LLC?

The LLC is one of the most used company structures in Chile.

Among the advantages the following may be mentioned:

- Its setting up presents no major difficulties.
- It is a simple manner to operate a business in which the parties and partners trust each other
- The responsibility of the partners is “limited” up to the amount of the agreed contributions
- The administration is simple and flexible, and there is no documented administration which may turn this process complex
- Changes to the by-laws require unanimity from the partners.

The disadvantages are the following:

- Its administration system is too simple for a more complex business. The parties will need to regulate in detail a more complete system of administration to solve this disadvantage;
- The structure and the important decision making process supposes a high level of “consistent opinions” among the partners, as well as a high level of “confidence among the partners”, as unanimous agreement is required to make relevant changes in the by-laws.

It is not an efficient structure as base for additional capital raise. Specially in the event of raising capital funds during different investment rounds, as normally happens in projects of “private equity” and “venture capital”.

3.2.2. Corporation (Sociedad Anónima –S.A.)

3.2.2.a. What is a Corporation?

Corporations are legal entities formed by a common fund pooled by shareholders, with their responsibility limited to their contribution, and administrated by an essentially revocable board of directors. The shareholders are only liable for payment of their shares and are not compelled to reimburse the company the benefits they might have received.

The Corporation is governed by Law Decree 18.046 dated 1981.

3.2.2.b. *Is the Corporation limited in relation to its object or other aspects*

In order to answer this question, it is relevant to point out that there are three types of Joint Stock Companies:

- **Open Public Corporations (S.A.)** are those which voluntarily or under legal obligation register their shares in the Registry of Values of the Superintendence of Securities and Insurance (SVS), those with 500 or more shareholders, or those where at least 10% of their subscribed capital belongs to a minimum of 100 shareholders;
- **Special Corporations:** are, among others the banks, insurance and underwriter companies, stock companies which administrate mutual funds, stock exchange and other companies which are subject to procedures clearly set out by the law, which are formed, exist and are approved by public deed, by obtaining a resolution from the Superintendence authorizing their existence and registration and publication of the special certificate granted by said Superintendence;
- **Closely held Corporations:** those which do not qualify either as open nor as special corporations.

Open and special corporations are subject to the supervision from the Superintendence of Securities and Insurance (SVS). Closely held corporations are not. Nevertheless, the shareholders of a closed corporation may agree to change it into an open one, and therefore be subject to the ruling and control from the SVS.

Due to the fact that the company is subject to the audit from the SVS and which implies major complexities and major expenses, in general in Chile closed corporations are preferred.

3.2.2.c. *Documents required to set up a Corporation*

To set up a corporation, either open or closed, the following is required:

- Public deed signed before a Public Notary;
- Registration of an extract of the above at the Trade Registry of the domicile;
- Publication of the extract in the Official Gazette.

Both procedures shall be carried out within sixty days as of the signing of the company deed.

3.2.2.d. *Administration of a Corporation*

Board of Directors

The administration of the company is delivered to a joint entity named Board of Directors, which is essentially revocable.

The Board of directors has administrative powers of attorney and provisions established by the Corporation Act or the by-laws of the company that are not exclusive of the Shareholders Meeting Board.

The Directors of a Corporation represent the company legal and non-legally, and during their accounting period they are compelled to comply with certain duties (loyalty, efficiency, and good faith), which mainly implies to perform their responsibilities in good faith, in the company's interest over their personal interest, freely and independently.

3.2.2.e. Who is entitled to become Director?

There are no major restrictions regarding who might be appointed a Director. A person might even be appointed Director if he lives abroad, since currently board meetings might be held by videoconference.

3.2.2.f. Is there a minimum number of Directors required in Chilean company structures?

In closely held corporations a minimum of three directors is required, and for open corporations, a minimum of five. For companies having stock exchange equity over 1.500.000 UF (Unidades de Fomento: inflation indexed value) 7 directors are required.

3.2.2.g. Is there a legal period established for the Director?

At the end of its term, which shall not exceed three years, the Board of Directs shall be completely renewed; nevertheless, they may be reelected indefinitely. If it is not mentioned in the by-laws, but as a general rule the Board of Directors shall be renewed each year. The President shall be appointed during the first shareholders Meeting (Board).

3.2.2.h. How do shareholders participate in a Corporation?

Shareholders meeting

The Shareholder's Meeting Board (Junta) is the most important entity of the company, in which the shareholders participate.

The shareholders shall appoint the members of the Board of Directors, and may at the same time remove all members of the Board of Directors at any given time.

They also must approve the general balance sheets; determine dividends

distribution policies, change by-laws, among others.

3.2.2.i. Contribution of capital to a Corporation (S.A.)

The capital is the fund provided by the shareholders. The capital is represented by means of negotiable share certificates so called share titles.

3.2.2.j. Does a Corporation require minimum capital or are there any relevant restrictions?

The Corporation Act stipulates that at least one third of the initial capital of the company has to be subscribed and paid for at the moment of subscribing the deed of incorporation. Furthermore, the total initial capital shall be subscribed and paid for within a period not exceeding three years. Said period shall start as of the date of incorporation of the company. Should the capital not be subscribed within this term, it shall be understood that the capital of the company only corresponds to the capital actually subscribed and paid for.

3.2.2.k. Are there any restrictions regarding distribution of profits

The Law provides that the Open Corporations shall distribute at least 30% of the net profits each year, unless otherwise agreed upon by the shareholders meeting board (Junta) with the unanimous vote of all the shares issued. In Closed Corporations the shareholders may agree in the by-laws on distribution policies of benefits.

La distribution of dividends may be approved by the Board of Directors, provided that there are no accrued losses. Should this be the case, each Director shall be personally responsible if the company ends up with losses or profits lower than the distributed benefits.

3.2.2.l. Advantages and disadvantages of the Corporation(S.A.)

Among the advantages of the Corporation the following can be mentioned:

- The free transferability of the company rights or shares. Its transfer shall not be hindered by the ruling from the company which has issued them neither by the market;
- The limitation of liability is up the value of the share;
- The faculty to revoke the Board of Directors, since the most important body of the company is the Shareholders Meeting Board (Junta);
- No limitations exist in relation to naming the company, except that it shall end with the words “sociedad anónima” or the abbreviation S.A.;
- The possibility to relevantly influence the decision making of the company is in as much determined by quorums reached during voting process.

Among its disadvantages, the incorporation and management implies more

procedures and consequently more expenses, especially if an open Corporation is chosen, since additional requirements related to the auditing form the SVS shall be complied with.

This company model is used for foreign investment involving the present and future participation of different shareholders since it normally adapts to the interests of said business.

3.2.3. *Stock Company (SpA for its acronym in Spanish)*

3.2.3.a. *What is a SpA*

A Stock Company is a legal entity created by one or more persons by means of an act of incorporation improved in accordance to the provisions governed by law, the participation of which in the capital is represented by shares. The SpA is always mercantile, and as in the Stock Company and LLC the shareholders have limited responsibility up to the amount of their contributions.

Firstly the SpA is governed by its by-law, by the provisions of the Trade Law (Articles 424 to 446 of the Trade Code), and in a supplementary manner, by the provisions which govern Closely held Corporations in everything not opposed to the legal nature of the SpA.

3.2.3.b. *Documentation required for incorporating a SpA*

The following is required for incorporating a SpA:

- Public Instrument/Deed signed before Public Notary or Private Instrument also authorized before a Public Notary.
- Registration of Extract in the Corresponding Trade Registry
- Publication of said Extract in the Official Gazette

The registration and publication of the Extract shall be carried out within 30 days following as of the date of the signing of the company deed.

3.2.3.c. *Main characteristics of a SpA*

The SpA may have a single shareholder, either during incorporation of the company or later on, and continue to exist in this manner.

Shareholders might be individuals or legal entities, there are no restrictions regarding this matter, and the possibility is open to incorporate more shareholders in the future. The maximum number of shareholders would be the amount which would force to change the company and register its shares in the Registry of Values and thus change to an open Corporation.

The ownership is represented by “shares”, but it is not a requirement to issue share

certificates or titles. The ownership is opposable to the company and third parties if it is registered in the Shareholders Registry.

For taxation purposes, the SpA is considered as a Closely held Corporation.

3.2.3.d. Advantages and disadvantages of a SpA

Advantages are as follows:

- Gives relevant flexibility in different aspects, as for example in the administration system, management system, operations and competence of the Shareholders Meeting Board, the recording in the Shareholders Registry, the audit system, capital structure, negotiable and transferable participation of each partner, expedite exit of the shareholder, company accounts and distribution, dissolution grounds, settlement system.

The feature of the SpA is that most of its provisions can be laid down in the company by-laws, with few restrictions in this sense.

3.3. Which is the cost of incorporation of a legal entity in Chile, including the administration costs, service charges and any other related cost?

To form a legal entity in Chile is relatively easy and expeditious and does not involve very high costs. Nevertheless, the incorporation costs will also depend on the amount of capital of the company.

In relation to lawyers' fee, these may range between USD 3.000 and USD 5.000, subject to the complexity of the documents (such as administration structures and powers of attorney) and the different concerns and additional necessities the foreign investor may have.

3.4. How long does it take to complete the procedure of incorporating a company

In general, it takes 3 to 4 weeks as of the moment all documents and the general power of attorney has been received.

III. Foreign Investment

4. Which are the mechanisms to enter Money to the country? Which are the proceedings to enter capital to Chile?

Regulations include two mechanisms to enter capital to Chile from abroad, first, Title I of Chapter XIV of the Text on Provisions on Foreign Exchange from the Central Bank, and on the other hand, Law Decree 600 of 1974 which establishes the Statute on Foreign Investment.

4.1. Title I of Chapter XIV of the Text containing the Provisions on Foreign Exchange (Compendio de Normas sobre Cambios Internacionales)

This regulation applies to foreign exchange operations dealing with credits, deposits, investments and capital contributions arriving from abroad.

It is a simple registration system, that is, it is not an approval system, and therefore no discretion from the authority is necessary. The procedure is explained below.

4.1.1. Which are the investment amounts applicable hereunder?

Regulations and requirements of this Chapter apply to investments over USD 10.000, or its equivalency in other foreign currency different to the American dollar.

4.1.2. Which is the procedure?

Under this system, the investor shall enter the foreign currency through an institution, member of the Formal Foreign Exchange Market. The Central Bank of Chile has authorized as part of the Formal Foreign Exchange Market all commercial banks and some money exchange offices and stockbrokers.

In general terms, the procedure consists in informing the relevant institutions that a capital amount superior to USD 10.000 will be entering the country, in order to subsequently inform the Central Bank .

4.1.3. Are there any limitations to foreign currency repatriation of profits and remittances in force related to investment?

Other than complying with certain tax regulations and other requirements, in Chile no rules exist restraining the free repatriation of profits. Nevertheless, the remittance of foreign currency must be made by an entity belonging to the Formal Exchange Market.

What does the Foreign Investment Statute (DL 600) consist in?

The Foreign Investment Statute enables foreign investors to celebrate a contract with the State of Chile which allows entering capital to the country with some additional legal guarantees.

4.2.1. To which operations is this law applicable?

This Law is addressed to all investors with a capital limitation to be entered not superior to USD 1.000.000.

Among the additional benefits we can highlight the access to a special tax regime assuring tax invariability at an only rate of 42% as total tax on Revenue. This benefit extends for the term of 10 years starting as of the date of the operational commencement of the so called company. Otherwise, the common regime governed by the Revenue Tax Law may be chosen, at a rate of 35% (Additional Tax).

The capital may be in foreign currency or other type of goods different to money. Furthermore, this capital may be received by an existing company, either by capital increase, transfers, acquisitions, or by a new entity incorporated for this purpose.

4.2.2. *Are there any restrictions regarding repatriation of profits and remittances of foreign currency related to investment under Law Decree 600?*

Repatriation of capital can be carried out only after one year has elapsed since it entered the country. Repatriation of profits may be carried out at any moment, since these remittances are not subject to a certain term.

Which are the advantages and disadvantages of both systems?

Text on Provisions relating to Foreign Exchange:

- In relation to the provisions established under Chapter XIV, it is important to point out that free access of foreign capital is being sought after by the Chilean Exchange Market. Therefore it offers a way to enter foreign currency quickly to the county and relatively free from state intervention. For this reason it is the most used mechanism.
- Nevertheless, the disadvantage of this regulation is that only contributions in “money” are allowed to enter the country.

Decree Law 600

- The advantages offered by the Foreign Investment Law are, on one hand, a regulation with no tax variations, and on the other hand, the possibility of entering other type of goods, besides foreign currency, such as capital goods, technologies and knowledge, among others.
- However, among its disadvantages consideration should be given to the fact that its Statute is only for a certain kind of investments. Furthermore, when entering into a contract with the State of Chile the process becomes more complex.

IV. Administrative, accounting and taxation matters

5. Which are the most relevant procedures to start a business in Chile

5.1. Obtaining a RUT (Rol Único Tributario) –Tax Registry Number

To develop a commercial activity, a Rol Único Tributario or RUT is necessary, which is granted by the Internal Revenue Service (Servicio de Impuestos Internos - SII). The RUT identifies the tax payers of the country.

5.1.1. Who must obtain a RUT

To obtain a RUT is a requirement for foreign investors who wish to initiate business activities in the country according to legal requirements and regulations from the Internal Revenue Service under the following circumstances:

- Nonresident companies in Chile which invest in the country, regardless their form of investment.
- Nonresident individuals and legal entities with no domicile in Chile participating in companies as partners or shareholders.
- Nonresident persons without domicile in Chile opening agencies or subsidiaries in the country or performing activities in permanent commercial establishments.
- Nonresident natural persons who perform as representatives, tourists, international officers and their families as soon as they become residents in Chile and other nonresident persons, if they carry out investments in the country, such as the purchase of real estate.

5.1.2. Simplified procedure to obtain a RUT

Currently a simplified procedure to obtain a RUT is available, addressed to individuals or legal persons with no residency or domicile in Chile, who invest in the country, either in:

- Purchase and sale transactions of shares from open stock companies available at the stock exchange market,
- Instruments with fixed yield,
- Financial brokering instruments,
- Mutual fund quotas
- In certain contracts, aimed to obtain revenues from these operations.

Those entities wishing to carry out these activities may access to this method through institutions operating as trustees (custodios), or also through the same stockbrokers with whom they operate.

Business Initiation

As a general rule those natural or legal persons starting business or work subject to taxable revenues, further to obtaining the RUT shall file before the IRS an affidavit regarding such initiation.

5.2.1. Who may be exempted from this procedure?

Investors with no domicile neither residence in Chile who only obtain revenues from securities are compelled to obtain a RUT, but do not need to follow the procedures for Initiation of Activities. However, in the case of nonresident persons and persons without domicile in Chile, the Initiation of Activities process should be carried in the event that the company or permanent establishment has been incorporated in Chile to materialize the investment in the country.

In that case, once the company is incorporated, the foreign investor shall comply with this formality before the IRS, which consists in an affidavit by means of which the tax payer informs the IRS that he will perform activities which may be taxable pursuant to the in force tax legislation.

5.3. Dutystamp of documents

5.3.1. Procedure for above is as follows

The authorization and/or duty stamp of documents is a procedure that legalizes the supporting documents for the different operations tax payers carry out when performing their economic activities. It is the authorization from the IRS for a range of documents to be issued electronically and/or the application of a dry stamp on each document and its copies.

5.3.2 Which companies should have their documents stamped

All following tax payers which have initiated business, are obliged to obtain the stamping of their documents, i.e.: individuals, legal entities, Chilean and foreign and other entities without legal status.

5.3.3. Which documents have to be stamped

Compulsory the following documents should be issued and stamped:

- Invoices;
- Voucher, receipts;
- Dispatch voucher (guía de despacho)
- Registry machine paper rolls
- Fees receipt;
- Debit and Credit notes;
- Accounting books, among others.

The first stamping of this type of documents shall be authorized by the IRS office where the tax payer is registered (assigned according to domicile), which will do the prior stamping of these documents, but previously it will verify the activity and domicile of the business within a term not exceeding 10 working days. Once

satisfactorily verified, the tax payer may request from the IRS to stamp this type of documents.

6. Is some kind of permit required to carry out activities in Chile?

Permits and Municipal Patents (Commercial License)

The foreign investor has to be aware that the economic activity he intends to carry out in Chile may eventually be subject to permits and special requirements, which will depend on the characteristics of that activity. For this purpose sanitary, health, environmental and municipal variables in general are to be considered. It is advisable that investors obtain information relating to permits which may affect their activities, they must approach the authorities to acquire this information and obtain the information regarding how long will it take to obtain these permits.

6.1. What types of permits or patents exist?

Basically four types of patents exist which are specific for each commercial activity, this means, should the company decide to extend the business to other areas; an expansion of the patent will be required. These categories are as follows:

- Commercial patents, which are granted for business and sales in general;
- Professional patents, which are granted to carry out professional activities;
- Industrial patents, which are granted for the production and manufacture of products; and
- Alcohol patents (license to sell alcohol), which is required to operate restaurants, bars and similar.

This procedure has to be made before setting up the facility where the business will operate.

6.2. What requirements and documents are needed from the public authorities to obtain permits and municipal patents?

The requirements vary depending on the municipality, however common elements are requested for all activities:

- Legalized incorporation deed of the company, registration with a notary of the extract and publication in the Official Gazette, registration in the Real Estate Property Registry and/or minutes of the Board meeting in which the legal representative of the company, in the case of a Corporation(S.A.) is named.
- Photocopy of the document of initiation of activities before the IRS (SII), authorizing to initiate a business, in case the patent is being requested for the first time.
- Legalized photocopy of the ownership certificate, rental contract, property deed or any other document accrediting the use of the domicile (as may correspond).

- Simple declaration of initial capital.
- Sketch or internal distribution map of the premises or office.
- Feasibility report, building permit and final reception of the premises where the business will be operating (if it is being built), granted by the Division of Public Works of the Municipality.

Furthermore, other authorizations depending on the type of activity which will be carried out might eventually be needed.

6.3. What is the difference between setting up a company with different company capital? For example, between USD 50.000 and USD 100.000

The "Patente Municipal" – Commercial license (determined by the domicile) has to be paid to the Municipality, in case of professional activities, commercial or industrial, the amount to be paid is calculated on the amount of capital of each tax payer and ranges between 0,25‰ and 0,5‰, depending on the Municipality. The Municipal Patent has a ceiling of 8.000 UTM (Unidades Tributarias Mensuales), which amounts approximately to 500.000 EE.UU. dollars a year. In the case of a new investment, and for the first year, all "company or registered capital" shall be considered as taxable capital.

7. Is there any territorial restriction to carry out a certain type of economic activity?

It is very important that before renting or purchasing a facility or a land to be used commercially, the city map regulation (Plano Regulador) of each district must be checked, to verify that the area of the purchase or rental for the facility of the company may be used commercially.

8. Which are the accountancy rules?

Accounting registration and accounting information

In general, any company or tax payer shall register its transactions in the following main bookkeeping: in a daybook; a ledger accounts book; and, a book for inventory or stock list and a balance sheet. In addition an auxiliary registry for tax purpose must be kept. These are for registration of sales and purchase daybooks; remuneration book (only for companies with five or more employees); the register for the withholding tax; the registry on stock listings; and the FUT book (Fund of Taxable Income). These books and registers must be stamped by the IRS.

8.1. How to file a tax declaration

Law provides that accountancy must be carried out by a generally recognized accounting system adequately indicating income, expenditure, purchase, investment and other business operations or operations performed by the tax

payer, as well as the outcome of the said business, enterprise, operation or activity.

The balance sheets must comprise a twelve month period, except for the first year and at the closing of the business. The balance sheets for tax return shall be filed on 31st of December each year with the IRS, or at the closing down of the line of business. The joint stock companies shall have their yearly balance sheets ready on 31st of December each year or some other dates as provided for in the bylaws.

The companies shall register and do the bookkeeping in their accounting books in national currency, nevertheless, if all or most part of the contributed capital is in a foreign currency, authorization might be sought from the IRS to keep the accounting books in foreign currency.

9. Which are the procedures and requirements to open bank accounts in Chile, including a personal bank account and a company account?

Chilean commercial banks offer virtually all type of bank services. Individuals and foreign establishments can open bank accounts at any bank in Chile if they comply with certain requirements requested normally by the bank.

V. General Tax Matters

10. What type of taxes are to be considered in the daily operation of a company and in product's import business in Chile. Which are the specific rates of each tax bracket?

The Chilean tax system has different types of taxes, divided mainly in four categories:

- Income Tax
- Sales and Services Tax
- Specific Taxes, and
- Other Taxes

Furthermore, Income Tax has some other tax categories, such as:

- Business profit Tax (Impuesto de Primera Categoría);
- Tax on income from dependent employment (Impuesto de Segunda Categoría) and,
- Complementary Global Tax (Personal Tax on total Income (Impuesto Global Complementario),
- Tax on nonresident individuals (Additional Tax).

As a general rule, Foreign Investment entities are subject to a same tax payment scheme applicable to resident companies.

These categories will be explained in the following points:

11. Income Tax

11.1. Who is levied with this tax and under what conditions?

Persons, either natural or companies, with residence or domicile in Chile are levied on their income whichever their origin, with income tax implying an increase of their patrimony.

11.2. Is there an exception for foreigners who do not have residence in the country?

Persons who do not have residence or domicile in Chile, are anyway subject to tax on revenue originating from goods located in the country.

In the event that a person establishes or assigns residence or domicile in Chile will during the first three years pay tax only on the revenue originating from Chilean sources, but once this term has lapsed, he shall pay taxes over the total of his revenues, originating from Chilean source or foreign. The term may be extended under exceptional circumstances.

11.3. “Chilean source” refers to the following

Revenues of “Chilean source” are those originating from goods located in the country and activities developed in Chile, whichever the residence or domicile of the tax payer.

11.4. How to establish the Income Tax

Two items must be considered in order to establish the Income Tax, one is the place of residence of the taxpayer and the other is the source of the income.

11.5. How do companies file tax returns and pay taxes on their profits?

Corporations, stock companies and permanent establishments of foreign enterprises are levied with the Single Tax of the Revenue Law (Impuesto Único de Primera Categoría o la Ley de Rentas), which sets a fixed rate of 35% on the total amounts paid and which is not considered as expenditure under the tax law.

Regarding other type of companies, partners or owners shall recognize nondeductible expenditures as revenues or income for their personal taxation. The First Category Tax (Impuesto Único de Primera Categoría) or Business Profit Tax, because of its characteristics, is normally known as the tax charged against business.

It is important to mention, that the owners of companies pay tax only once profits

have been withdrawn. If the afore mentioned has not been verified it is assumed that taxation has been suspended up to the moment these withdrawals are made.

What income taxes are levied in Chile?

11.6.1. First Category Tax

11.6.1.a. What income is levied with First Category Tax? What activities are included?

Business Profit Tax levies income originating from capital. This tax is applied to industries, commerce, mining, real estate and other activities involving the use of capital.

In principle this tax is levied to income determined on the base of received net profits or from accrued deduction of expenses.

11.6.1.b. Which is the rate for this tax?

Since 2004, this tax permanently has a yearly rate of 17% on the benefits, nevertheless, exceptionally due to the damages caused by the 2010 earthquake an increase of this rate has been agreed by law, being set at a 18,5% and at 20%, to finance reconstruction. The original rate of 17% will return to normal in year 2013.

11.6.1.c. Which is the taxable base for the First Category Tax?

To determine the taxable base for this tax it is necessary to make various deductions, such as follows: all income has to be added, in order to lower later the costs of the goods and services and the so called expenses to yield an income. Necessary expenses are those required to yield income, which in practice are those related in the line of business, paid for or debited during the calendar year and which are possible to justify before the IRS (Internal Revenue Service).

11.6.1.d. How to file for tax purposes these revenues?

These revenues should be filed on a yearly basis in the month of April, at the end of the calendar year (which ends on December 31st), date when the relevant document has to be submitted to the IRS. During the calendar year a 2% of the gross income has to be paid monthly. If finally, after the calendar year concludes it remains an outstanding balance, the IRS shall return the amount within 30 days.

11.6.1.e. Does the IRS audit taxpayers to prove compliance in relation to company's profits?

Companies are compelled to keep a registry in a book so called Taxable Profit Fund (Fondo de Utilidades Tributables FUT), for the purpose to control the generated company profits, withdrawals and distribution, as well as those profits which have

not been withdrawn or distributed, as well as all credits associated to these profits. Should repatriation of benefits take place, an additional 20% on the applied tax rate must be paid.

The tax paid by the company under these terms is reduced as credit, according to a set mechanism to elaborate the FUT, of the Complementary Global Tax (Impuesto Global Complementario) or Additional Tax (Impuesto Adicional) (which will be explained later) with which the owners, partners or shareholders of companies are levied with, for withdrawn profits or distributed dividends.

11.6.2. Second Category Tax (Impuesto de Segunda Categoría)

11.6.2.a. What is the Tax on Income from dependent employment?

This tax is a monthly progressive tax determined by different steps of rates, starting with a first rate bracket exempt (amounts lower than 13,5 Monthly Tax Units or UTM) and ranging to the last step with a marginal rate of 40%. It is calculated according to the salary and/or remuneration for work performed, only deductions for payments made for social security and health are allowed.

11.6.2.b. Which type of income is levied with this tax?

Second Category Tax is levied on persons with income from dependent employment. According to article 42 on Revenue Tax Law, the following incomes are taxed hereunder:

- Wage, salaries, supplementary wage, reward, per diem, allowances, gratuity/bonus, participations and any other assimilations and assignments which increase the paid remuneration for personal services, widows pension and pensions, except the compulsory payments for social security and retirement funds, and the amounts received for representation expenses.
- Income from liberal professions or lucrative employment not listed in the first category, nor under the afore mentioned number, inclusively income obtained by justice administrative workers which may receive this income by law from the public, obtained by brokers and who are natural persons, which income originates exclusively from their work or personal activities, without employment of capital, and those obtained by professional companies rendering exclusive services and professional consultancy.

11.6.2.c. What is lucrative work?

“Lucrative work” consists in independent activity performed by individuals, predominantly personal work based on knowledge of science, art, craft or technique over employment of machinery, tools, equipment and other capital goods.

These revenues will pay Complementary Global Tax (Impuesto Global Complementario) once these have been received.

11.6.2.d. How does this tax operate? How to pay and enter this tax?

This tax shall be withheld and paid for on a monthly basis by the employer or the revenue payer in the tax office. In the event that the worker does not receive other income, he is not obliged to file a yearly declaration of income tax. Furthermore, should a worker have more than one employer, for the purpose of progressive tax, all obtained income should be added and included in the corresponding tax bracket rate, and proceed to yearly settlement in April of the following year after the income has been received.

11.6.2.e. Independent workers are levied as follows

On the other hand, persons receiving income originating from other professional or lucrative independent activities shall also consolidate their income yearly and pay the Complementary Global Tax or Additional Tax as due. Under this situation, a credit is granted, corresponding to a retention or provisional payment of 10%, for the Second Category Tax against the Complementary Global Tax, and may request the refund of the surplus resulting from the yearly settlement submitted, in those cases determined by law.

11.6.3. Complementary Global Tax (Personal Progressive Tax on Global Income)

11.6.3.a. What is the Complementary Global Tax?

The Complementary Global Tax is a global tax, personal, progressive and complementary tax paid on a yearly basis (in the month of April) on the taxable income of all individuals with residence or domicile in Chile. The rates range progressively between 0% to 40%, and in the tax brackets as in Second Category Tax, except it is calculated on a yearly basis.

11.6.3.b. How to calculate this tax

For the purpose of calculating this tax it is necessary to include the income which has not been levied with 'Category taxes'.

For the purpose to determine the amount of this tax, in the taxable base it shall be included an equivalent of the First Category Tax which encumbered profit withdrawals and distribution of dividends from companies received by taxpayers, and on that basis a progressive bracket rate as established by law, shall be applied. The tax payer is entitled to deduce as credit the amount of the First Category Tax paid by the company which has been included in said calculation.

11.7. Finally, which are the taxes being levied on a foreign investor?

Summary of Income Tax for Foreign Investors

Based on afore mentioned, it is possible to recognize the following taxes levied on income of foreign investors:

- First Category (in principle 17%)
- Additional Tax (35%)
- Tax on capital gains and shares' transfer. (15%)
- Law Decree 600 (tax invariability scheme)
- Foreign Investment Fund (10% on remittances abroad)

12. Tax on Goods and Services

12.1. Value Added Tax (VAT)

12.1.1. What is the VAT?

The Value Added Tax is essentially a consumption tax, and the main tax in Chile. It levies the sales of goods and services rendered or used in the country and originating from activities outlined by law.

12.1.2. Which is the general rate for VAT?

The general rate applied is a 19%, which is also applied to imports, habitual or otherwise, carried out by individuals or legal entities.

12.1.3. How does this tax must be filed, informed and paid?

VAT is retained by the seller and for service rendered by the individual and must be declared on a monthly basis. To calculate the amount to be paid under VAT the difference between the tax debit and the tax credit has to be determined.

12.1.4. Which are the tax credit and the tax debit?

These are values obtained on one hand from adding the taxes charged on the sales and services made by the taxpayer during the relevant period, and on the other hand the addition equivalent to the tax charged on the purchase invoices and the use of services from the taxpayer to develop his business.

If there is difference resulting from this operation, the system has a mechanism allowing to use of this excess in later periods.

12.1.5. Who is subject to be levied this tax?

The VAT levies the final consumer of goods and services, but the VAT is generated at each stage of marketing of said goods and services, so that in the final price the added value is truly reflected.

12.1.6. How to file this tax?

The VAT is filed and paid for up to day 12 of the following month after the sale has been made and services carried out.

12.1.7. How does this tax operate in relation to imports and exports?

The imports are subject to VAT with the exception that the VAT paid for imports, purchase and rendered services (corresponding to the tax credit), should be reduced from VAT for payment and services rendered (corresponding to the fiscal credit). The taxpayer shall pay the tax debit and file the monthly tax declaration corresponding on the 12th day of the following month of the filed period.

Exports are exempted from VAT. Nevertheless the VAT paid for purchase of goods and services which are expenses and costs relating to exported goods shall be reduced from VAT to be paid for local sales or to be reimbursed by the IRS. Air or maritime transport and services rendered to non residents considered by the Customs Service as exports shall be treated in the same manner.

13. Has Chile subscribed any type of agreement to avoid double taxation?

In the year 1997 Chile started a negotiation process of bilateral agreements with other countries to avoid double taxation of taxpayers and fiscal evasion. These agreements have as a general criteria Free Trade Agreements and principles originating thereof such as opening of economies, substantial capital flow, goods and technological exchange and strategic interests in the regions. This has been achieved through reduction of the tax rates.

In this regard, in general Chile follows the Model Tax Convention of the OECD, which basically levies taxes on income considering the residence of the investor. Nevertheless there are some exceptions, as for example, income levied based on the location of its production source and not of the residence. To eliminate double taxation Chile applies in its domestic legislation and in its Agreements an ordinary credit system. In the case of countries which are not covered by an Agreement, Chile provides a credit of 30% for the tax paid abroad for dividends and remittance of profits, and if payment is less for these concepts, an amount effectively paid for is provided. This credit is deducted in the first place from the First Category Tax, and should there be any unrelieved credits, these may be used as credit to reduce the Global Complementary Tax or Additional Tax.

Income originating from permanent establishments or agencies, trademarks, patents, formulas, technical consultancy and services, shall be applied a credit

equivalent to the First Category tax rate, and should it be less, by the amount paid in the foreign country. The credit for this income shall be applied against the First Category Tax.

Chile also grants an ordinary credit of 30% in those cases an Agreement has been reached. But in this case the application is more extensive, applying to the income. Should the tax amount paid be less, said amount will be applied as tax credit effectively paid. This credit will be applied firstly to the First and Second Category Tax and any unrelieved credit may be applied against the Complementary Global Tax or Additional Tax as pertinent.

It should be pointed out that Chile has signed bilateral treaties to avoid double taxation in international transport services (by air and sea) freight and passengers.

Países con Convenio <http://www.sii.cl/pagina/jurisprudencia/convenios.htm>

VI. Labor Matters

14. Which is the regulatory frame in labor matters in Chile?

Chile has fairly refined labor laws that are mainly contained in the 1994 Labor Code. Some of the most important provisions are detailed below.

The Labor Board (*Dirección del Trabajo*) is responsible for advising on and regulating this area.

The Labor Code regulates labor relations in the private sector. Workers in the public and municipal sectors are subject to a special statute.

The right to work in a non discriminatory environment is established in the Article 19, No. 16 of the Constitution. In addition, the Constitution acknowledges the right to form a union, to negotiate collectively and to strike.

14.1. Are there any restrictions regarding the nationality of workers?

Where a workforce comprises more than 25 employees, a minimum of 85% of those employees must be Chilean nationals. This restriction may be relaxed, among others, in cases where foreign technicians or experts have skills otherwise unavailable in Chile.

14.2. Which are the rules to manage employer-employee relations?

Relations between employers and employees are basically governed by the Labor Code, contained in Decree in Force Law No. 1 of January 7, 1994, amended by Law 19,759 of October 5, 2001, which regulates both individual and collective relations between employers and employees.

14.3. Which are the formalities required to carry out a labor contract?

Where a relationship of employer and employee exists (i.e. where the employee is personally rendering services under the subordination of the employer and receiving remuneration for such services), the employment contract must be put into writing. If this is not done, the law will imply a written contract and a court, when deciding the terms of the contract; will agree with the employee's version of the terms (except where the employer brings evidence to rebut such terms).

14.4. Are there any restrictions in order to fire an employee?

Employers have the right to terminate employment contracts only on the grounds set out in the Labor Code, in certain cases with the payment of compensation and in other cases without.

14.5. Which is the work week? Are there any limitations to work hours?

There are restrictions on the maximum hours that can be worked in a week and rules on rest periods and vacations. The normal working week is limited to 45 hours. Offices and banks normally operate Monday through Friday. In general, a minimum break of 30 minutes must be allowed in the middle of the day. Such period is not considered as worked time, and therefore is not added to the working week.

If working conditions require continuity of labor, a shift system may be established with the approval of the Labor authorities. The normal working period may be extended by mutual written agreement to a maximum of two hours more a day, provided such an extension is not detrimental to the health of the worker.

14.6. How are the wages established?

There is a monthly minimum wage. Employers making profits are required to share those profits with employees.

Employers have no obligation to provide fringe benefits. Pension, sickness, maternity and disability benefits are covered by social security institutions. There is no obligation to provide canteen facilities and meals, but enterprises do, in fact, normally provide them.

14.7. How does the Social Security System work?

Through Decree Law No. 3,500 of November 1980, a private social security system was created. Social security is managed by private entities called Administrators of Pension Funds (AFPs). The contributions are placed in an individual fund made up of certain qualified investments, such as government

securities or fixed term deposits in banks.

Some tax benefits has been established in order to increase saving.

All employees are required to make health care, pension and unemployment insurance contributions. Although these contributions are to the employee's account, it is the employer who is legally bound to withhold from the employee's wage the proper amounts and pay them to the employee's pension and health care providers.

Furthermore, the system provides compensation insurance in relation to work-related accidents and professional illnesses (which is set up by the State or by private entities called *Mutualidades*). This insurance covers employees injured in work-related accidents or suffering work-related illnesses. Employer's contributions vary and are a percentage of the payroll. Employers must also pay a percentage for unemployment insurance.

These obligations must be fulfilled during the first 10 days following the month of payment.

14.8. Is the client entitled to apply for the resident permit in Chile after the completion of the company setup?

In general, to work legally in Chile a foreign employee will need an employment contract visa or a temporal residential visa.

Foreign employees will be required to pay Chilean income tax on their Chilean income, and in general, after 3 years residence, on their worldwide income.

In the case of certain South American countries such as Argentina or Brazil an identity card is sufficient. This matter is based on reciprocity. A work permit is required to perform any kind of remunerated activity in the country.

VII. Intellectual Property

15. Which is the Chilean legal frame regarding Intellectual Property Protection?

Intellectual property rights in Chile are granted constitutional recognition and protection. In addition, two key statutes on intellectual property are in effect in Chile: the so called "Industrial Property" Act, which governs patents of invention, utility models, industrial designs and trademarks; and the Copyright Act, which governs copyrights and moral rights (understood as the rights of an author over his or her work.)

Chile is a party to the Bern Convention (Paris Text); the Paris Convention

(Stockholm Text); the Convention Establishing the World Intellectual Property Organization; the Geneva Convention; the Inter-American Copyright Convention; the Rome Convention; and the Universal Copyright Convention (Geneva Text). Chile is also a party to the Trade-Related Aspects of Intellectual Property Rights Pact (TRIPS).

In addition to these legal texts, when examining intellectual property, intellectual property licensing, and other related issues, one must also take into account general contract law, consumer protection laws, antitrust laws, and resolutions issued by Chile's Antitrust Board.

Protecting industrial and intellectual property rights is of paramount importance in Chile. Regrettably, persons other than their legitimate holders have registered business, domain names and trademarks, which may lead have to choose either to contest the registrations of the business names, domain names and trademarks (a lengthy and expensive process) or even to buy the registrations.

15.1. What is a Trademark in the Chilean system?

The Industrial Property Act defines "trademark" as a visible, original, and characteristic sign capable of distinguishing goods, services, and/or commercial or industrial establishments. To be granted trademark protection for such goods, services and/or establishments, the trademark must be registered with the Industrial Property Department (IPD). The mere use of a trademark, thus, does not grant any kind of protection.

15.1.1. Does the system protect only trademarks? Or is extended to other aspects?

Trademark registrations in Chile are not limited to trademarks but also include trade names, service names, business names, logos or labels and slogans.

15.1.2. Which are the mechanisms to protect Trademarks involved in the business?

The registration process commences by filing an application with the IPD that must include the information relative to the proposed coverage. In this connection, the International Classification of goods and services established by the Nice Agreement is applicable in Chile.

When a trademark application is submitted, it will go through a double examination process. The first examination is practiced over the formal aspects of the application and its purpose is not to check that the trademark is already registered or available. At this stage, the examination only determines if the power of attorney and coverage requested fulfill the legal requirements. If the application passes this examination, details are then published in the Official Gazette and a period is allowed for objections to the registration to be made. Due to the fact that a

trademark search is not conducted during the preliminary examination, it is indispensable for trademark owners to permanently watch those applications that are published in the Official Gazette, in order to file oppositions if applicable.

The second examination analyzes the potential causes of rejection that could affect the requested trademarks.

15.1.3. How long does the trademark registration procedure takes?

Registration of a trademark in Chile takes approximately one year if no objections are raised by the IPD or by third parties; if objections are raised, the registration process may take two to three years. Upon completion of the registration process, the holder of record is regarded as the legitimate owner of the relevant trademark.

15.1.4. Are there any restrictions regarding territorial aspects?

As regards territorial enforceability, a registered trademark filed for goods, services or industrial establishments is valid throughout the territory of Chile; the registered trademark of a commercial establishment, however, is enforceable only in the Region regarding which the application was filed. In the event that a trademark owner wishes to extend the trademark's enforcement to other regions, this will entail payment of an application fee plus a registration fee per Region added (Chile has fifteen Regions and each Region is considered as a separate class for tax or official fee purposes).

15.1.5. Once the trademark is granted, how long does the protection last?

The registration of a trademark gives its owner exclusive use of it in Chile for 10 years. A trademark registration is successively renewable for another 10 years period. Once a trademark has been registered, its owner may license the use of the trademark to others. In Chile, use is not required in order to maintain or renew a trademark.

15.2. How can a business name be protected?

There are no specific statutory rights for business names in Chile. When a corporation is formed in Chile, the Registry of Commerce will not check if a corporation already exists with the same name. If another corporation exists with the same name, it is down to one of the corporations to bring an action against the new one in an attempt to stop the use of the name.

The incorporation of a corporation does not grant any right to the name of the same. Similarly, when a limited liability partnership or branch is formed, the Registry of Commerce will not check for the same name and consequently the same name may priority exist. There are no provisions for a limited liability partnership or

agencies to bring an action against other limited liability partnerships or agencies with the same name. While provisions of the Paris Convention (that protect business names) are in force in Chile, the best way to protect and secure rights over a business name is to register it as a trademark in Chile.

15.3. Which are the main provisions regarding Patent Registration?

In Chile, inventions may be protected by the registration of a patent. As per patent registration in Chile, the Industrial Property Act defines an invention as a solution to a technical problem that originates an industrial activity, including any useful improvements thereof.

The invention may be a product or a procedure or something related to either of these.

15.3.1. What is the time extension of a patent?

If an application is approved, a patent may be granted for up to 20 years as from the application's date.

15.3.2. Are there any mechanisms to grant international protection to an invention? Which is the procedure?

Usually where foreign investors are concerned, the inventions they wish to protect are already the subject of patents or pending patents elsewhere.

As the Paris Convention is in force in Chile if the patent has been registered (or is pending registration) in one of the other member countries, the applicant will have a priority period in which to register its patent in Chile. This priority period is one year as from the date of the filing of the registration application in the other member country.

In order to find out if a patent is already registered, it is necessary to carry out a patent search. This process can be carried out in approximately 2 weeks.

15.3.3. Which is the procedure that has to be carried out in order to register a patent?

Patent applications are filed with the Patent Office. Once filed, an expert appointed by the Patent Office will examine the application.

In order to be entitled to initiate criminal actions against patent violators, the Industrial Property Act requires that the registrant utilizes the words "Patente de Invención" or the initials "P.I." and the registration number on the patented object or on its packaging.

15.4. How can Copyrights be protected?

Copyright notice and/or registration in Chile are not required since the law affords copyright protection by virtue of merely creating the work.

Chile is a signatory to the Berne Copyright Convention, which gives copyright protection to works originating in the member countries. Nonetheless, registration is advisable because it gives rise to a presumption of authorship. Also, by registering the date of the work's creation, an author records the commencement date for the period of the copyright. Both details may later assist an author in copyright claims.

15.4.1. What kinds of works are subject to copyright protection?

Copyright protection is available for any original work of authorship fixed in some material form. In other words, protection is granted to authors of creative works in the literary, artistic and scientific fields.

Software, computer programs, and literature supporting such works such as books, catalogs, and instruction manuals, are eligible for copyright protection.

Furthermore, Chilean copyright law protects not only the economic or pecuniary rights of the author of a work but also his or her moral rights throughout the duration of the copyright.

15.4.2. What are moral rights and what do they involve?

Moral rights include granting to the author the right to claim authorship of a work; the right to preserve the integrity of his or her work, which encompasses the right to reject mutilations, distortions, or other modifications of the work; the right to leave the work unpublished; the right to authorize or prevent a third party from completing an unfinished work; and the right to maintain anonymity as to authorship.

15.4.3. How does the copyright registration procedure must be carried out?

In order to register, a copy of the work must be filed with the Copyright Registry. Also, if a copyright notice is inserted in the work, the copyright conventions to which Chile is a party will apply.

If a work has copyright protection, it should bear the sign ©, the name of the author, the date of creation and the words 'Derechos Reservados' or the abbreviation 'D.R.'.

15.4.4. For how long will the copyrights exist?

The copyright will exist for the lifetime of the author plus 70 years. The copyright will be extended if at the author's death he is survived by a wife, an unmarried daughter or a married daughter with a spouse who is affected by a disability such that he will be unable to work during his lifetime. In such cases, the copyright will expire 70 years after the death of the latest qualifying survivor. Copyright of anonymous works lasts for 50 years.

These terms may not be extended. There are both civil and criminal sanctions for the violation of copyright.

15.4.5. Is the material author always the owner of the copyright?

In some cases (such as computer programming), if a work is made by an employee in the course of his or her employment, the employer will be deemed to be the author of the work, unless otherwise agreed to by the parties. Similarly, if a work is commissioned to an independent contractor, copyright will be afforded to the person who commissioned the work, unless otherwise agreed to by the parties