



# Thinking beyond borders: Management of extended business travelers – Chile

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# Contents

<b>1</b>	<b>Key message</b>	<b>4</b>
<b>2</b>	<b>Income Tax</b>	<b>6</b>
<b>3</b>	<b>Social Security</b>	<b>10</b>
<b>4</b>	<b>Compliance obligations</b>	<b>12</b>
<b>5</b>	<b>Immigration</b>	<b>14</b>

**01**

**Key message**

# 1 Key message

Regardless of the place of payment, performing activities in Chile generates Chilean liability. For Chilean tax purposes, the status under which a person will be taxed as a resident or non-resident is dependent on the characteristics of the individual's assignment.

The responsibility to pay taxes is generated by performing remunerated activities in Chile. Tax liability is generated from the first day of travel to Chile unless a Double Tax Agreement can be applied.

**02**

# **Income tax**

# 2 Income Tax

## 2.1 Source Income

As a general rule, any person domiciled or resident in Chile is subject to income tax on a worldwide basis. Individuals who are neither resident, nor domiciled in Chile, pay taxes only on their Chilean source income.

Foreigners with residence or domiciled in Chile will pay taxes only on their Chilean source income during the first 3 years from their arrival in Chile. After this period has elapsed, foreigners will be subject to income tax on their worldwide income. Additionally, Chilean legislation also provides the possibility of an extension of this period in specific cases, nevertheless it is imperative that an extension request is filed with ample time to be approved before the expiration of the time period. In order to obtain an extension, strong supporting documentation must be provided that clearly establishes that the person does not have the intention to permanently remain in Chile.

According to the Chilean Income Tax Law, Chilean source income is defined as income derived from activities performed or goods located in Chile. Thus, compensation received for employment activities carried out within the country/jurisdiction should be considered as Chilean source income, and therefore subject to taxes in Chile, regardless of the nationality or residence status of the individual, and the place of payment.

## 2.2 Tax Residency

For tax purposes, the resident status is acquired once an individual has been in Chile more than 183 days within any 12-month period. According to article 49 of Chilean Civil Code the accounting of a fact that must be analysed “within” a certain period, will be accomplished if it is met by midnight of the day before Chilean income tax law does not provide for a domicile definition, but according to article 59 of the Chilean Civil Code, domicile requires residency in a place and the intention to remain in it. In accordance, the Chilean Internal Revenue Service (IRS) has understood that an executive may acquire tax domicile in Chile in the following circumstances:

- when they have moved to Chile with their family
- the person has purchased or rented a house in Chile
- his children attend to a school in Chile
- the person came to the country/jurisdiction under a Chilean employment contract.

Accordingly, a person will acquire Chilean domicile once the aforementioned requirements (residency and intention to remain in it) are met.

While an executive is considered non-resident and not domiciled in Chile for tax purposes, they will be subject to non-residents income tax (Additional Tax). The tax is levied at a flat rate of 15 percent on the gross employment income, if the activities can be qualified as technical or engineering work or professional services that an individual renders through a report, advice or plan development, rendered in Chile or abroad.

From the 184th day onwards or as from the acquisition of tax domicile, whichever occurs first, the executive will generally be taxable with the residents' Chilean income taxes, and subject to employment

income tax (Second Category Tax), which has progressive rates ranging from 0 to 40 percent on the net salary.

**03**

# **Social Security**

# 3 Social Security

## 3.1 Foreign executives who contribute to the Chilean Social Security System

In the case that the executive does not meet the requisites of Law 18.156, the executive will have to contribute to the Chilean social security system. As a general rule, employees working in Chile are subject to the payment of social security contributions, which are deducted from their gross salary with certain caps. These contributions must be withheld by the employer and are paid as follows:

- pension fund administrator: 10 percent plus a management fee of approximately 2 percent
- health Institution: 7 percent.

All of these percentages are calculated over the gross salary with a cap of 90 Development Units (UF) per month (approximately 3.610.818 Chilean pesos (CLP)). Such mentioned cap of 90 UF is adjusted annually considering the variation of the real wage rate determined by the National Institute of Statistics.

Unemployment insurance and working accident: According to Law No. 19.728, on unemployment insurance, employers and employees will be obliged to make contributions for unemployment insurance, even when they may qualify for the exemption under the Act discussed above 18.156. The aforementioned unemployment insurance will be financed with the following allowances:

- a) 0.6% of taxable wages, paid by the employee (with cap of 135,2 Development Units (UF), CLP approximately 5.424.251 Chilean pesos (CLP)).
- b) 2.4% of taxable wages (with cap of 135,2 UF), a cost of the employer.
- c) Contribution of the Government, whose amount is determined according to the rules established by law.

## 3.2 Foreign executives who contribute to the Chilean Social Security System

Legislation in Chile allows foreign individuals and the companies that bring them to Chile, to be exempt from making social security contributions in Chile and to keep their affiliation to a foreign social security system, when certain requisites are met. This special regime is established in Law 18.156.

According to this law, in order to be exempt from contributing to the Chilean social security system under the Law 18.156 clauses, it is necessary to meet the following requirements:

- the foreign individuals must be affiliated to a foreign social security system which provides benefits at least equal to those minimum benefits provided by the Chilean social security system, which covers for illness, disability, retirement and death
- the executive must declare their intention to keep their affiliation to the foreign social security system within the respective Chilean employment contract
- the foreign individual must have a technical or professional degree, and this fact must be backed up with the corresponding documentation.

**04**

# **Compliance obligations**

# 4 Compliance obligations

## 4.1 Deadline

Annual tax return in Chile must be filed by 30 April each year.

The deadline to file monthly Income Tax Return for taxpayers considered resident in Chile is the 15th of the following month.

The deadline to file monthly Income Tax Return for non-residents is the 12th of the following month.

Sworn Statement 1929 is due by June 30<sup>th</sup> each year.

**05**

# **Immigration**

# 5 Immigration

Tourists cannot develop remunerated activities; however, the National Immigration Service may, in specific cases, authorize an individual to carry out such activities for a period not exceeding the validity of the tourist permit (usually 90 days, renewable for additional 90 days).

To work in Chile in a long-term period (more than 180 days) a temporary residence permit is required, providing access to Chilean ID (RUT).

## 5.1 Other Important Items

In Chile, a new Migratory Law establishes 16 new types of temporary residence permits and their requirements. Each of them will allow foreigners to live and work in Chile for a 2-year period at least, with few exceptions.

Below, a list of the main temporary residence permits used for long term assignments:

**Permit for non-Chilean nationals who perform licit remunerated activities:** This Permit is aimed for those non-Chilean nationals who intend to live in Chile and perform remunerated activities under an employment relationship with a Chilean company. Moreover, this permit can only be applied for from abroad. The end of the employment relationship that originally grounded this permit, will not result in the revocation of this residence permit, which allows to work with different employers without notifying the National Immigration Service.

**Permit for individuals covered by international agreements:** This Permit is intended for nationals or residents, as applicable, of those State parties of international agreements signed by Chile which are currently in force by the time of filing the application. This Permit may be applied from Chile or abroad.

**Permit for investors and related personnel:** This Permit is intended for non-Chilean nationals, legal representatives and individuals who exercise management functions or senior management in a foreign company who are seeking to invest in Chile for an amount equal to or greater than USD 500,000 every time that this investment aims the production of good and services. This Permit it is also intended for those non-Chilean nationals who perform management functions or senior management and the technical assistance experts, hired under a employment relation or to provide services to a company established in Chile which equity or assets is controlled directly or indirectly by a foreign investor who owns at least the 10% of voting rights or an equivalent participation in the capital stock in case of non-joint stock companies. This Permit can only be applied for from abroad and will require, among others, a supporting letter from the Foreign Investment Promotion Government Agency (InvestChile).

**Family Reunification Permit:** Intended for those non-Chilean nationals who have family ties with a Chilean or a non-Chilean national who currently has a permanent residence permit. This Permit may be applied from Chile or abroad and allows to perform remunerated activities in Chile.

**Permit for Dependents:** Intended for those non-Chilean nationals who have family ties with a non-Chilean national who is applying for temporary residence permit or currently has a valid one. This Permit may only be applied for from abroad and allows to perform remunerated activities in Chile.

**Multiple entry business Permit:** This Permit is intended for those non-Chilean nationals who will conduct executive, or directive activities related to business or investments that companies maintain in Chile and must travel to the country on a regular basis. Regardless of the validity of this Permit, the total length of stay of the non-Chilean national may not exceed six (6) months in each calendar year. This Permit can only be applied for from abroad.

[Back to top](#)

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