

Foreign Investment Mechanisms in Chile

Foreign Investment Committee



Gobierno
de Chile

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Regulation of Investment in Chile



- **Chilean Central Bank's Compendium of Foreign Exchange Regulations (Chapter XIV)**
- **Decree Law N° 600 (DL 600)**
 - Originally introduced in August 1974.
 - Ratified by Congress in March 1993 with minor modifications.
 - Demonstrates the importance of a stable foreign investment policy that remains in place over the long term.



Foreign Investment Statute



Art. 1°, DL.600

“Foreign individuals and legal entities and Chileans resident or domiciled abroad who transfer foreign capital to Chile and enter into a foreign investment contract...”

- Individuals
- Legal entities:
 - Companies
 - Corporations and foundations
 - Foreign States
 - International organizations



Main Characteristics of D.L. 600



Main Characteristics

- Non-discrimination
- Non-discretionary procedures
- Free access to economic sectors
- Contract with State of Chile
- Access to Formal Exchange Market
- Capital and profit remittances
- Choice of tax regime
- Six forms of investment

Main Characteristics of D.L. 600



NON-DISCRIMINATION

Reflects constitutional guarantee of equality before the law. Guarantees that, on economic matters, foreign investors will receive the same, or not less favorable, treatment as local investors from the State and its agencies.

Right of appeal in case of discrimination

- Constitutional action (Art. 20 CPE)
- Administrative review (Art. 10 DL 600)



Main Characteristics of D.L. 600



NON-DISCRETIONARY PROCEDURES

- Known, clear and transparent procedures; administrative decisions are not subjective.
- Guarantee that investors will receive fair and impartial treatment.



Main Characteristics of D.L. 600



FREE ACCESS TO ECONOMIC SECTORS

Chile's Constitution ensures every person the right to develop any economic activity (Art. 19 N° 21).

Economic freedom applies to both Chileans and foreigners.

General Principle: no sectors are out of bounds.

Limitations: morality, public order, national security.

Conditions: adherence to legal norms.



Main Characteristics of D.L. 600



INVESTMENT CONTRACT

- Solemn contract (public deed).
- Cannot be modified unilaterally by the State.
- Grants to investors rights that are protected by constitutional guarantee of right to property.



Main Characteristics of D.L. 600



ACCESS TO FORMAL EXCHANGE MARKET

- To convert incoming equity.
- To acquire currency to remit capital or profits.



Main Characteristics of D.L. 600



CAPITAL AND PROFIT REMITTANCES

Remittance of capital: Permitted one year after entry; no tax or other levy applies to these remittances up to the amount of the investment materialized.

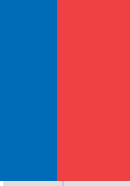
Remittance of profits: Permitted at any time once the corresponding taxes have been paid.

For both capital and profit remittances:

- Investor can use most favorable exchange rate.
- Certificate must first be obtained from the Executive Vice-Presidency of the Foreign Investment Committee.



Main Characteristics of D.L. 600



CHOICE OF TAX REGIME

All persons domiciled in Chile must pay taxes on income wherever it is generated, while non-residents are liable to tax only on income generated in Chile. This tax - known as First Category Tax - is currently levied at 17%.

Standard Regime

Rate: 35% additional tax on profit remittances against which investors can credit First Category Tax.

Invariable Tax Regime (Optional)

Rate: 42% additional tax on profit remittances. This serves as a tax insurance policy since the rate cannot be changed for a period of ten years. An investor can exit from this regime at any time in favor of the standard regime, but cannot subsequently return to the invariable regime; First Category Tax can also be set against this additional tax.



Main Characteristics of D.L. 600



SIX FORMS OF INVESTMENT

- Freely-convertible foreign currency
- Tangible assets
- Technology
- Loans related to the foreign investment
- Capitalization of loans and foreign debt
- Capitalization of profits





A foreign investment contract does not guarantee a project's implementation since the investor must also obtain all other necessary permits.

If norms that are more favorable or convenient for the investor than those contained in an investment contract come into force after the contract has been signed, it is the policy of the State of Chile to apply these norms if the foreign investor so requests.



Foreign investment mechanisms in Chile



Chapter XIV	Decree Law 600
Applies to any operation in excess of US\$10,000.	Voluntary for operations in excess of US\$5 million (first investments in cash) and US\$ 2.5 million (fixed assets).
No contract executed with the state.	Contract executed with the State represented by the Foreign Investment Committee.
No obligation to convert foreign currency into Chilean pesos.	Foreign currency must be converted into Chilean pesos.
Access to Formal Exchange Market subject to the regulations in force at the time of carrying out the operation.	Guaranteed access to the Formal Exchange Market.
No mandatory minimum term of stay.	One-year capital lock-in; right to remit profits at any time.
Subject to standard tax regime.	Optional tax stabilization regime.



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