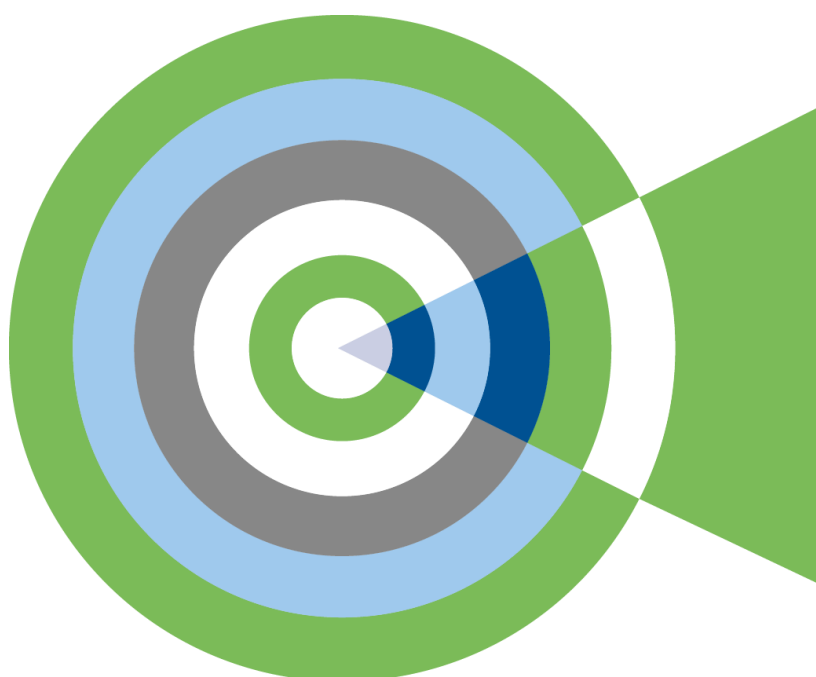


DOING BUSINESS IN CHILE



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1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in around 100 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Chile has been provided by the office of UHY representatives:

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A detailed firm profile for UHY's representation in Chile can be found in section 8.

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at July 2020.

We look forward to helping you do business in Chile.

2 – BUSINESS ENVIRONMENT

HISTORY AND GOVERNMENT

From its independence in 1810, Chile has been governed by a series of constitutions that have reflected political currents and influences around the world, but which have managed to give the country political stability for decades.

Chile has experienced almost uninterrupted republicanism from 1833 to 1973, when a coup d'état led by the armed forces defeated the president of the time.

Chile's current political constitution, which replaced the former one of 1925, was passed in 1980. For its basis, this constitution defines the nation of Chile as republican, democratic and of political unity.

Chile has a presidential regime where both the executive and legislative powers are elected by universal suffrage. As the presidential system is a form of representational government, the powers of the state are separated into executive, legislative and judicial, where each is autonomous and independent.

GEOGRAPHY

Chile is located along the western coast of the southern half of South America, stretching all the way down from Peru to the continent of Antarctica and incorporating to the west Easter Island and Polynesia in the South Pacific Ocean.

Its territory also includes the Archipelago of Juan Fernández, the Juan Félix Islands, San Ambrosia and Sala and Gómez.

The surface area of Chilean Antarctica and other Chilean territories off the mainland is 756,102 kilometres square. The length of the country is over 8000km, the maximum width is 445km and the average width is 180km.

The country is divided into 16 regions: Arica and Parinacota, Tarapacá, Antofagasta, Atacama, Coquimbo, Valparaíso, Metropolitan Region, General Libertador Bernardo O'Higgins, Maule, Ñuble, Biobío, La Araucanía, Los Ríos, Los Lagos, Aysén del General Carlos Ibáñez del Campo, Magallanes and Antártica Chilena.

These regions, in turn, are divided into 56 provinces and 345 districts.

Santiago is the capital city located in the Metropolitan region. Other major cities include Iquique, Antofagasta, Copiapó, La Serena, Valparaíso, Rancagua, Talca, Concepción, Temuco, Valdivia, Puerto Montt and Punta Arenas.

The geography and climate of Chile vary greatly from north to south, from the extremes of desert to ice, with regions of valleys, pastures, lakes, forests, islands, rivers and canals along the way.

In the north, the climate is mostly temperate. The average temperature on the coast is 23°C and inland this rises to 30°C. In the central area, the four seasons are very much evident, with pleasant temperatures found in every season. Towards the south, temperatures drop around 1°C for each 150 metres of altitude in the Andes. The average temperature reaches 20°C in summer whilst it drops to 8°C in winter. Rainfall tends to be concentrated in the winter months (May to August) and reaches an average of 375mm. Winters are generally calm and summers are relatively hot.

THE DOMESTIC MARKET

POPULATION

Chilean people are known for their strength of character inherited from the country's indigenous cultures. Furthermore, there are many descendants of the Spanish conquistadors and later of European immigrants, which has created a unique ancestry. Nowadays, the population has a relatively homogenous profile, where diversity also has its place.

In the last census, carried out in April 2017, preliminary results showed that Chile has a population of 17.5 million inhabitants, 40% of whom live in the Metropolitan region where the city of Santiago is located. According to estimates from the National Institute of Statistics, life expectancy has increased significantly in Chile, rising from the age of 30 at the beginning of the 20th century to an average of 80 today.

LANGUAGE

The official language of Chile is Spanish. Alongside this, a variety of indigenous languages are also spoken.

In the north of Chile, approximately 20,000 inhabitants speak Aymará, although the majority of these are bilingual and will regularly use Spanish.

In the central area, specifically in the territory of Easter Island, the original inhabitants speak Rapa Nui, a language of Polynesian origin.

In the south, 0.5 million people speak the Mapuche language (Mapudungun), though the majority also employ Spanish as a second language. In these areas, education is provided in both languages to prevent indigenous tongues from dying out.

In terms of foreign languages, the Ministry of Education caters for various languages in schools around the country. The most important of these is English, although French and German are also taught in some schools. As a result of commercial agreements, some schools and universities are teaching Mandarin Chinese.

NATIONAL ELECTIONS

Presidential elections were last held in November 2017 and the next will be in November 2022. The last elections for senators and deputies were held in November 2017 and the next one of senators will be the 2026 and the one of deputies will be 2022

CURRENCY

The Chilean currency is the peso (CLP).

UNITS OF WEIGHT AND MEASURE

Chile uses the metric system for measurement, and uses the kilogram for weight.

ECONOMY

Economically, Chile is an exemplary country in Latin America.

Political stability, strong macroeconomic indexes and the quality of human resources are all factors that have allowed Chile to reach a leadership position on the continent. Comparing Chile with other emerging countries, its privileged position in terms of country risk, economic and political freedom and quality of life, can be highlighted. Alongside this, the country has vast mining potential, low corporate taxes, and modern transport and telecommunications infrastructure. Chile also stands out for its solid and efficient financial sector as well as high levels of market penetration for information technology and use of the internet.

ECONOMIC GROWTH

According to figures from the Central Bank of Chile, during the 1990s the economy grew on average by 8%. In the first years of the 21st century, growth slowed down and in the context of the international crisis, growth expectations have not been as high. Growth from 2000–2011 was 3.8%. However, the growth rate in 2011 and 2012 reached an extraordinary rate of 5.5% due to an increase in production, low inflation and the rising level of international reserves. For the 2020-2021 product of the Covid19 pandemic and the social outbreak produced at the end of 2020, a negative growth of 5% is estimated.

Between 2014 and 2017, economic growth was decelerated due to the impact of lower copper prices on private investment and exports, but was reactivated in 2018. A growth of 4.8% in the first half of the year reflects a recovery in consumption and private investment, driven by higher wages, lower interest rates and greater business confidence. Likewise, in 2020 the growth of industrial activity was resumed due to higher copper prices and mining production. Non-mining activities, particularly wholesale trade, commercial services and manufacturing, have remained low.

CREDIBILITY

Macroeconomic management is based on pre-established policy and the independent and autonomous Central Bank guarantee on fiscal and monetary discipline. The existence of stable and transparent policies, an efficient and independent judiciary and the presence of a dynamic and innovative private sector ensures Chile is the most competitive country in the region and provides the kind of stability much appreciated by foreign investors.

EXPORTS

Currently, through a large number of companies, more than 190 countries export a significant number of products. Copper, saltpetre fertilizer and lithium are among these products. In agriculture, there are wines, a wide variety of fruits and in the fishing industry, seafood such as salmon, tinned fish and fishmeal. Other exports include frozen foods, pre-prepared foods, ceramics and wood amongst others. Added to this, Chile has a wide variety of manufactured products and is blessed with a highly qualified workforce renowned in the international market. Last but not least, there are a large number of telecommunications and financial consulting companies offering services to the world.

3 – FOREIGN INVESTMENT

For a long time Chile has been attractive to first-time investors in Latin America who value the economic and political stability and the clarity in business and taxation matters.

Increasingly, investors are going a step further. Having gained confidence and experience in the country, they are not only trading in Chile but are also using Chile as a base to serve other markets of the region. Examples of this abound and include companies in the mining industry (a sector with the largest growth), such as those in the north exporting copper to the world markets, as well as those in the extreme south, such as the Canadian company Methanex, which produces methanol and sells it around the world. Agricultural and manufacturing companies, and those in the food industry such as producers of the best wines to salmon farmers, as well as ship-building and computer assembly businesses, supply to markets outside of Chile and use Chile as a base, taking advantage of the growing network of trade agreements.

TAX REFORM

In 2017, Chile updated its tax legislation to facilitate companies using Chile as a platform from which businesses can invest in trading with other foreign markets and to strengthen alliances between foreign investors and local businesses.

In line with Chile's policy to minimise tax barriers to foreign investors, the reform means that foreign investors do not have to pay Chilean taxes on earnings obtained from investments in other countries. The current legislation allows national and international companies to have their business platforms in Chile by applying paid taxes in such countries under the credit mechanism.

CONSEQUENCES OF CREDIBILITY IN CHILE

The use of Chile as a platform for trading with neighbouring countries has created a significant number of new jobs, as well as increasing technological exports and services within the country. However, there are also benefits that are less visible, such as those in the form of know-how and technology. Consequently, all these positive aspects are combining and providing an impetus for Chilean development, which in turn is beneficial for foreign associates.

THE FINANCIAL SYSTEM

Currently there are 29 banks operating in Chile, 14 of which consider themselves as banks established in Chile, 5 branches of foreign banks plus 1 state bank.

They are the following banks – Banco de Chile, Banco Internacional, Scotiabank Chile, Banco de Crédito e Inversiones, Banco Bice, HSBC Bank (Chile), Banco Santander-Chile, Itaú-Corpbanca, Banco Security, Banco Falabella, Banco Ripley, Banco Consorcio, Banco Bilbao Vizcaya Argentaria, Chile (BBVA) and Banco BTG Pactual Chile.

As well as the aforementioned establishments, there are five branches of foreign banks – Banco do Brasil S.A., JP Morgan Chase Bank, N. A., Banco de la Nación Argentina, The Bank of Tokyo-Mitsubishi UFJ, LTD and China Construction Bank, Agencia en Chile.

Also, we can find a state bank, which is Banco del Estado de Chile.

Finally, there is the Central Bank of Chile, which is not audited by the Superintendence of Banks and Financial Institutions.

All the banks mentioned (with the exception of the Central Bank) are subject to inspections from the Superintendence and are regulated by the legal decree No. 3, 26 November 1997 which is outlined in The General Law of Banks, as well as the norms outlined by the Superintendence in the Updated Version of Norms.

The General Law of Banks defines what a bank is in article no. 40. This definition states that the basic operation is to obtain money from the public with the objective of offering it in loans, adding interest, investing, acting as a financial intermediary and making profits from these and any other operations which the law allows.

STATE GUARANTEE AND PREFERENCE FOR DEPOSITS AND ATTRACTING SAVINGS

The norms of the General Law of Banks (article 65,123, section 5, 132 and articles 144–153) assure the deposits in national or foreign currency from a bank or financial institution for the following transactions:

- 100% of the balance
- Deposits via a savings book with an unconditional deadline draft
- 90% of the total balance with a maximum payment limit of 108 index-linked units in the whole financial system each calendar year, for on-time deposits that fulfil the following requirements:
 - The account holder is a person, not a business
 - Deposits are made within the deadline via nominative documents on demand or with savings books via instalments
 - Deposits are made within the deadline of which the expiry date does not exceed ten days following the presentation of an agreement or the declaration of forced liquidation
- Current account deposits
 - Deposits via a savings book, payable on demand
 - Other deposits at call.

TRADE AGREEMENTS

The stimulus for foreign investments has been provided by various trade agreements. These agreements have resulted in the international alliances listed below.

FREE TRADE AGREEMENTS (FTA)

The free trade agreements Chile has signed with other nations have been vital in encouraging businesses to adopt a positive approach, such as:

- TLC Chile – Australia
- TLC Chile – Argentina
- TLC Chile – Canada
- TLC Chile – Central America
- TLC Chile – China
- TLC Chile – South Korea
- TLC Chile – EFTA
- TLC Chile – United States
- TLC Chile – Hong Kong
- TLC Chile – Malaysia
- TLC Chile – Mexico

- TLC Chile – Panama
- TLC Chile – Thailand
- TLC Chile – Turkey
- TLC Chile – Vietnam
- TLC Chile – Uruguay

In 1991, Chile signed a free trade agreement with Mexico and in 1996 proceeded to finalise an FTA with Canada, as well as becoming an associate member of the MERCOSUR commercial block, formed by Brazil and Paraguay.

Furthermore, Chile has bilateral economic and trade agreements with:

- The European Union
- The USA
- South Korea
- EFTA (formed by Norway, Iceland, Lichtenstein)
- Switzerland
- Singapore, New Zealand and Brunei (which together with Chile form the 'Pacific 4' block)
- China
- Japan
- Australia.

It also has signed free trade agreements with Colombia and Peru, and is currently in negotiations with India.

AN OPEN ECONOMY

With more than 20 trade treaties signed with 56 countries, Chile is one of the most open economies in the world and amongst the nations with the greatest number of trade agreements. This is the result of a process of economic liberalisation which began three decades ago and the adoption of policies aimed at knocking down trade barriers across continents, ensuring Chile has one of the most open economies in the world and provides a vibrant platform for doing business.

ENTRY OF CHILE INTO THE OECD

The council of the Organisation for Economic Cooperation and Development (OECD) invited Chile to be part of the agency on 15 December 2009, a determination unanimously adopted among the 30 countries members. Subsequently, on 11 January 2010, in a solemn ceremony at the Palacio de La Moneda, Chile signed the 'Agreement on the terms of the access of the Republic of Chile to the Convention of the OECD'.

The OECD was created in 1961. Currently, it has 34 members, including Chile, among developed and emerging nations of the Americas, Asia, Europe and Oceania. The Organisation also cooperates with key partner countries (Russia, Brazil, China, India, Indonesia and South Africa) as well as a large number of non-member countries. Chile has participated in the OECD since 1993 and is the first country to become a member after ten years and only the second Latin American country, after Mexico.

CONFIDENCE IN INVESTORS

Thanks to the agreements, Chilean businesses enjoy privileged access (and in many cases a 0% customs fee) to a global market of more than 1,000,000,000 consumers worldwide. In response to this, an increasing number of companies such as the British-Dutch Unilever, the Swiss Nestlé, the German BaiersdorfAg and Packard-Bell, controlled by Japanese capital, are using installations in Chile to export to neighbouring markets and, indeed, the rest of the world.

In many cases, such as Packard-Bell, foreign businesses have formed strategic alliances with Chilean partners to access local knowledge. In the 1990s Chilean businesses, using their experience in a domestic, competitive and unregulated market, started to expand into neighbouring countries to apply their expertise. For foreign investors, this is a significant advantage; as well as knowledge of export markets, Chilean entrepreneurs and executives have practical experience of operating in other countries.

A number of foreign investors have been attracted by the world-class telecommunication infrastructure in Chile, given that they are already using Chile as a launching base. Delta Airlines, Air France and Hewlett Packard are just three companies which have adopted this strategy. They all chose Chile as the centre of support and contact to sell tickets, reply to clients' queries and provide other services around the region.

Many international companies have started to look towards 'shared services'. This is the centralisation of internal services, such as accounting and financial administration for subsidiaries in different countries, as a way of reducing their operational costs. And thanks to Chile's trustworthy telecommunications and wide range of highly-qualified professionals, our country has emerged as an attractive business alternative.

AGREEMENTS OF DOUBLE-TAXATION ELIMINATION

These are legal international agreements between two states, which are incorporated into the internal legal regulations of each nation, with the aim of eliminating or reducing the duplication of international taxes which affect or restrict the exchange of goods and services, capital transfers, technology and people. This benefits people of both countries who are legal nationals or residents of either country.

In general these agreements are applied to taxes liable on earnings or ownership. The following alternatives exist to counteract problems of double taxation:

- The taxation jurisdiction is conceded exclusively to one of the states involved, to be imposed on earnings and estates in the country where the business has its headquarters or the country that provides the source of revenue
- The taxation jurisdiction is conceded to both nations, but a limit is given, from which the nation of origin can impose a determined levy (interest, royalties).

Rules are envisaged where the countries concerned agree to avoid double taxation in cases where revenue is taxed in both countries. Rebates and exemptions exist based on how much tax has been paid in the other country.

Chile has signed agreements or treaties on elimination of double taxation with 25 countries. It is currently in negotiation with nine countries.

EXPORT/IMPORT POLICIES

As world trade is rapidly growing, free trade agreements have become commonplace.

The World Trade Organisation (*Organización Mundial del Comercio* – OMC) endeavours to regulate every aspect of world trade agreement. Nevertheless, countries continue to implement measures in order to protect their national industries.

The following are some of the most important measures adopted by Chile.

IMPORTS POLICY

This refers to general procedures, mainly administrative, for carrying out imports. Amongst these are licences, rules for the valuation of excise duty on merchandise and inspections prior to shipments. Matters of customs/tariffs are also included.

TECHNICAL REGULATIONS AND SAFETY MEASURES

These consist of specifications with regards to the characteristics of some products concerning elements that must be included such as packaging requirements and labelling, including safety measures (which also relate to plants and animals).

INTELLECTUAL PROPERTY

These are rules which regulate commerce and investments with a view to protect the author's rights, manufacturing and commercial brands and original names, amongst others.

SUBSIDIES

Certain state grants provide economic support, allowing a reduction in costs and generating favourable sales prices.

EXPORT OF SERVICES

Services are not affected by customs duties, which means that any barriers concerning these are incorporated in laws or rules and regulations that discriminate against certain sectors, or the suppliers of foreign services. Transport, telecommunications and financial services are included in such laws and regulations.

COMMERCIAL SAFEGUARDS

These are temporary measures adopted to protect a national industry faced with an increase of imports or unfair business practices (dumping). They can also apply in cases where financial contributions or subsidies from other governments or state organisations are involved, with the imposition of excessive excise duty or anti-dumping rights or compensation on the import of certain products.

4 – SETTING UP A BUSINESS

HOW TO OPERATE IN CHILE

Foreign people and companies not residing in Chile may develop commercial activities by:

- Appointing a representative
- Having an agency or branch of a foreign company
- Having a company of people or public limited company
- Having a private limited company.

Companies can be private or public. Private ones provide profits for the associate members and public ones according to contributions. In the latter, members can change without the authorisation of other members, which is exactly what happens in incorporated companies. There are mixed companies, such as those in limited partnership by shares. In private companies, the contract to create, modify or terminate a contract requires the agreement or consent of all members. Conversely, in public companies the majority vote is sufficient

In Chile, companies can have any money-making objectives as long as they are within the boundaries of the law, morality and good practice. However, the law requires that certain companies of a particular specialisation can only exist in a determined form, in public limited corporations, and will be under particular supervision. This is the case for banks, financial institutions, insurance companies, global equity and investment funds companies, funds administration, pensions, health provision institutions, commercial stock brokers and to a lesser extent, stock values and stock exchange agents are also in this category.

As a general rule, Chilean law does not demand a minimum of capital to form a company, except in the case of certain particular public corporations.

Companies regulated by the Civil Chilean Code, collective civil companies and partnerships, are subject to terms agreed by both parties where the law does not cover their specific case. Other companies, that is, public and private limited companies are formed by public decree.

TYPES OF COMPANIES

GENERAL PARTNERSHIPS

In general partnerships, partners are liable up to their personal wealth and possessions. A debt of an insolvent partner burdens other partners and agreements on payments are, as a general rule, taken unanimously. In partnerships with private investors, the company directors or owners are liable up to their personal wealth and possessions but private investors or silent partners only up to their contribution. The dissolution of these companies is a spoken agreement and it is therefore enough to gain the consent of all parties without having to register or publish decisions officially.

In corporate enterprises, the contract of the business constitution is formal and must be published in the official weekly newspaper and registered in the Registry of Commerce. The notification must contain all essential information, which includes the name of all the partners, as it is legally binding to all parties. This, along with the trading headquarters, will determine which assets supervisor and which court of justice will regulate the business and determine the applicable legislation.

PRIVATE LIMITED LIABILITY COMPANIES

In private limited liability companies, partners are liable up to the amount which they have contributed to the company. Private limited companies, civil or commercial, are always publicly registered. They must be legalised by public decree in the Registry of Commerce and published in the official newspaper. Modifications in terms of the partners are acts where the same formality applies; amendments must be published and registered in the Registry of Commerce. These rules do not relate to private limited companies, which are subject to by-laws in the Civil Code and Code of Commerce.

INDIVIDUAL LIMITED LIABILITY COMPANIES

An individual limited liability company is an individual whose capital is different from the holder's. To create this company, a Chilean or foreign individual is required.

An individual limited liability company is constituted through a public deed which must contain at least the stipulations indicated in the law. An abstract of the public deed authorised by the notary is registered in the Commerce Registry along with the company's address and is published in the *Diario Oficial* (official journal) within 60 days after the deed's date.

LIMITED CO-PARTNERSHIPS

In limited co-partnerships there are two types of associate members; the directors, who are the ones with administrative power and the shareholders, who are passive capitalist members.

There are two types of limited co-partnerships. In simple limited co-partnerships, shareholders have the rights of general partners and in partnerships limited by shares, the issue of shares represents the extent of the ownership of shareholders as in public limited companies. Simple co-partnerships are by spoken agreement, whereas commercial limited partnerships and partnerships limited by shares are by announcement in the official newspaper and by decree in the Registry of Commerce.

PUBLIC LIMITED COMPANIES

The public limited company is defined by law as an entity formed by a common fund, which is provided by shareholders who are liable only up to the amount they have invested. It is administered by a board of directors subject to modifications.

A public limited company has the same characteristics as other companies:

- It is a business entity
- Shareholders provide capital or goods valued in monetary terms
- The company pursues lucrative goals
- Losses are sustained by a pool of shareholders

- Shareholders are distinguished from one another in their rights as individual title holders.

These companies are always commercial, even when they have been formed for civil ends. The public limited company constitution, modifications and dissolution are made lawful by public decree, registered in the Registry of Commerce and published in the official newspaper.

Public corporations can be open or closed. The first is where shares are offered publicly and in this case, the company should be registered with the Registry of Securities within 60 days of its creation and is subject to the auditing system agreed by this registry (banking entities are audited by the SBIF, which is the banking regulatory agency) Closed corporations, on the other hand, cannot offer shares publicly except where they voluntarily undergo auditing by the Registry of Securities. Notwithstanding, with the authority of the shareholding representatives, they have the power to become closed to the public and consequently no longer need to be registered in the Registry of Securities or be subject to their auditing system. The law does not require a minimum amount of capital for the forming of a public limited company except in special cases such as for banks and insurance companies.

OPERATIONS THROUGH A REPRESENTATIVE

A representative operates according to a mandate, contained in an agreement which is provided by a non-resident investor to a resident individual or entity. The representative acts on behalf of and at a risk of the foreign investor to carry out one or more business operations. Representatives agree payments with the business investors they act for.

CHILEAN BRANCH OR AGENCY OF A FOREIGN COMPANY

A foreign company must appoint a legal representative to constitute a branch. The legal representative should authenticate, among other formalities, the following documents (which must be registered in the official language of the foreign country with a corresponding translation into Spanish, as well as the verification of the legal establishment of the company abroad, in cases where a different language exists):

- A certification proving the company still exists
- An authentic copy of the current statutes of the company
- A general power of attorney issued by the company to the legal representative for the business in Chile. This power should clearly establish that the legal representative acts in Chile under the direct responsibility of the company and with wide powers to act on its behalf.

5 – LABOUR

Working relations between employers and employees are regulated in Chile by the Labour Code and by complementary laws included in the employment contract.

LABOUR LAWS

Legal parties are defined in the terms set out below.

The employer is the person or entity who uses the intellectual or manual services of one or more people, specified contractually.

The employee is any person who offers intellectual or manual services according to the specifications outlined by the contract created by the employer.

An independent worker is someone who in exercising their activity does not depend on an employer, nor has employees working for them.

In terms of work legislation and social security, a business is understood as any organisation or entity which employs people under some form of management with an economic, social, cultural or beneficiary objective legally determined.

An employment contract is the means by which both parties have guarantees – for the employer, that the employee will carry out the services required, and for the employee, remuneration pledges for such work.

The employment contract must contain at least the following information:

- Place and date of work
- Indication of full name, nationality, date of birth and start date of the employee
- A determination of the nature of the work and the place or city in which this will be carried out
 - The contract should mention two or more specific job functions which can be separate or complementary
- The salary, form and frequency of the agreed remuneration
- Length and distribution of the working day, except where the company operates on a rota system, in which case this will be subject to internal regulation
- Length of contract
- Other work-related agreements made by both parties

When an employee has to change address due to work, their original address must be stated.

If, due to the nature of the job, the worker must frequently travel in the working day, the geographical area in which the company operates must be mentioned.

The employment contract can be individual or collective. The contract is individual when it is agreed between an employer and an employee and collective when it is agreed between one or more trade unions or workers who form together to negotiate collectively, with a view to establishing common working and remuneration conditions for a determined period of time.

The contract is mutually signed and must state the dates on both copies, one copy going to each party. If the employer does not sign the contract within 15 days of the employee starting work day (five days in the case of projects lasting fewer than 30 days) will be sanctioned by law

LEGAL REQUIREMENTS TO EMPLOY FOREIGN WORKERS IN CHILE

For a foreigner to be allowed to work in Chile, they must be legal residents in their country of origin and should be authorised to work in Chile by their country of origin.

Requirements for foreigners to be granted a visa subject to contract are:

- 1) The company or institution must have a legally recognised address in Chile
- 2) The working contract must be signed before a notary by the employer and worker or those representing them. If signed abroad, it must be signed by both parties before a consulate or diplomatic agent recognised by the Ministry of Foreign Affairs according to the procedure established in the Civil Code of Procedure
- 3) Professionals or specialised technicians must be accredited with the respective title duly legalised. Contrary to this, their knowledge or ability in their specialised field must be evidenced through the necessary documentation
- 4) If the profession, industry or work of the contracted party is indispensable to the development of the country, an official report by an accredited organisation would need to be made to substantiate the grounds for this
- 5) The activities carried out by foreigners should not endanger national security. If there is any query relating to the nature of the work, prior to any application, the National Ministry of Defence should be consulted
- 6) The contract should be verified in accordance with the appropriate work-related legislation and regarding health and social provisions.

WORKING SCHEDULE

The length of the working week must not exceed 45 hours per week.

The employer has the right to extend this by two daily hours. In this case, the hours exceeding the aforementioned maximum will be paid as extraordinary hours. Extraordinary hours shall not exceed a maximum of two hours daily and ten hours weekly.

Extraordinary hours can only be allocated to cater for temporary situations within the company. Such agreements should be put in writing and be valid for a period of no longer than three months, with the possibility of extension provided that both parties agree. Extraordinary hours carried out without a written agreement and with the knowledge of the employer will be paid as extraordinary hours.

Extraordinary hours must be paid with a 50% increment and should be paid alongside remuneration for the respective period.

Hours worked in lieu are not considered extra hours. These should be officially requested by the employee and authorised by the employer

BREAKS DURING THE WORKING DAY

The working day must be divided into two parts, leaving a minimum of 30 minutes for a meal break. This is not considered as time worked during the working day.

Sundays and public holidays are days off, except for those industries authorised by law to work on those days. Excluded from this are jobs that require ongoing production or are subject to *forces majeures* which require the workers presence. Companies excluded from the Sunday off ruling should allow a rest day in lieu of this or other public holidays on which employees have to be present.

REMUNERATION

The term 'remuneration' refers to the salary paid by the employer valued in terms of money and stated in the contract. Remuneration does not include the following:

- Transport allowances
- Cash losses
- Wear and tear
- Meals
- Per diem
- Family loans granted by law compensation for years of service
- Other factors relating to contract termination or refunds of expenses for accidents due to work.

The following do form part of any remuneration:

- The salary, which is the fixed amount of money paid at determined periods (eg monthly) and stated in the contract for services rendered
- Extraordinary hours
- Commission, which is a percentage of the sales price the employer agrees in conjunction with the employee
- Shares or a proportion of the profits of a business
- Bonuses corresponding to the part of the profits which the employer shares with their employee and adds to their remuneration.

Remuneration must be paid in money of legal tender with a frequency stipulated in the contract and no later than one month after the work is carried out.

The employer must deduct from remunerations taxes, social security and other provisions in conjunction with the relevant public or private organisations.

HOLIDAY ENTITLEMENT

Workers with more than one year of service have the right to 15 days paid holiday. Saturday is not considered a working day. Remunerations are paid for this period as stipulated in the contract via the fixed remuneration. In the case of employees with variable earnings, an average of earnings over the previous three months will be taken.

Holidays are a legal entitlement and should only be paid in money instead if the employee leaves the company before taking their annual leave.

6 – TAXATION

In Chile, taxes can be categorised as direct and indirect taxes.

Direct taxes are those which are directly incurred on individuals or legal entities. Direct taxes include tax on earnings, on capital growth and those fees paid for obtaining permits, licences, rights and other such entitlements.

Indirect taxes are those which are applied to the purchasing of goods or services and the transactions involved. In other words, the customer who purchases a product/service pays such a tax even when the nation where it was bought does not directly charge taxes; the individual or entity which sells or renders the service retains the tax and pays it to the state. Indirect taxes are therefore charged on the buying/selling of goods or services and also on other commercial transactions such as the import of goods brought from other countries. A typical tax in this category is value added tax (VAT), where the current rate is 19%.

Taxes are one of the most significant sources of income for any government in the world. Thanks to taxes, governments receive money which they can use to carry out social projects, investments and state administration, along with many other activities.

Many types of tax exist and this section outlines the main types.

EXPENDITURE, INCOME AND PROPERTY TAX

Expenditure taxes are those that are mainly levied on transactions of buying and selling (at the moment an individual or business buys goods, they are paying tax.)

Another type of expenditure tax is charged when goods are brought to Chile from another country (imports.) This type of tax is called customs duty.

Income taxes directly affect people and businesses that receive profits, benefits or increase of capital from a determined activity/work carried out. There are also property taxes ie any person who has a immovable asset (property) must pay property tax in Chile.

Property taxes are contributions relating to houses, estates, buildings, land and inheritance. Real estate tax, legacy duty and vehicles tax are included amongst these.

REGRESSIVE AND PROGRESSIVE TAXES

Regressive taxes are those which are charged equally, where the tax rated applied does not relate to the economic capacity of a person.

These taxes imply that a person with no means of support must pay a higher amount of tax in relation to his/her income than a person with means of support. Therefore, regressive taxes can strongly affect an individual's personal economy.

Conversely, progressive taxes take into account the economic capacity of a person/company. With this type of tax, poor people pay less than rich people. In other words, as profits or earnings rise, the amount of tax paid also rises proportionally. Progressive taxes seek to retain a proportional amount of income. In this way, the government seeks to redistribute wealth and bring more benefits to the less-favoured in society.

There is a clear relation between the tax burden and development levels. The Chilean tax burden is perfectly consistent with the development level of the country and is at a rate expected for a country with an income like Chile.

Indirect taxes tend to be regressive and direct taxes progressive. In the case of the latter, these are normally calculated on personal wealth, personal earnings or company earnings. It is vital that these taxes are not charged to people with the greatest needs, though there are always taxes on items such as cigarettes, alcohol, gambling etc.

The level of taxation depends on the amount being taxed and on the particular goods/services on which they are incurred. For this reason, national governments need to be very careful when imposing taxes. A mistake in calculations could generate results which may be the opposite of the expected outcome.

SPECIFIC TAXES

VALUE ADDED TAX

VAT is a tax on sales of consumer goods. It is an expenditure tax, with consumers charged at the moment of purchase for merchandise or services. The current VAT rate is 19%.

FIRST CATEGORY TAX (TAX ON COMPANIES)

The first category tax is a tax on companies and the rate is 25%, and 27% depending on Tax Regime they choose, for “Semi-Integrated” or Regime Pyme” (Letter A and D numeral 3 of article 14 of Income Tax Law) It is applied to incomes paid and/or earned on an annual basis from 1 January to 31 December (i.e. each calendar year).

Although this tax affects profits, whether for individuals or companies, it acts as an advance for the complementary global tax or additional tax. This means whenever the entrepreneur, partner or shareholder receives income from a company, he/she should pay the corresponding tax and he/she can then apply this first category tax as a credit.

For such purposes, any company must pay this first category tax on a complete accounting basis. The entrepreneur, partner or shareholder will pay the complementary global tax or additional tax on income from the company, which are recorded in the business registers, which make it possible to keep track of the credits that may accompany the withdrawal of profits from the companies.

For general knowledge, since January 1, 2020, a new income tax law has been in force that has been promoted by the current government of President Mr. Sebastián Piñera E., a law that comes to provide important support to Pymes in the country. It simplifies the taxation system, remaining with an income tax rate of 25% and only in the event that there are withdrawals of profits, the final taxes are complemented, which, for the aforementioned purposes, are the Complementary Global Tax (for domiciled individuals). and residents in Chile) and Additional (for non-residents in Chile)

Pymes, for the purposes of the new income law, are those small and medium-sized companies that their average sales levels of the last 3 years, do not exceed UF 75,000, app., USD 2,738,550, of turnover sales not considering extraordinary or unusual sales, such as Capital Goods or Property Plants and Equipment.

BRANCHES AND PERMANENT ESTABLISHMENTS

Revenue obtained by a permanent branch or an establishment from an activity in Chile is subject to additional taxation when it is transferred abroad. The permanent establishment or branch has the right to use the additional taxes or first category taxes to later gain credit for taxes paid on revenue.

Permanent branches and establishments of companies (or foreign individuals) are subject to first category tax (25% on the actual earnings resulting from business activity in Chile).

Any distribution or reissue of earnings is subject to extra payment of tax.

CREDIT FOR TAXES PAID ABROAD

Taxes paid abroad can be used as a credit against the domestic taxes up to a certain amount and for any excess, can be treated as a deductible expense. A unilateral credit of 20% is allowed in respect to some income of foreign source. In cases where there is an existing agreement to avoid double taxation, this credit increases to 30%. The credit excess can be used within the next years.

SECOND CATEGORY TAX

This category of tax involves income paid to individuals by means of their intellectual or physical performance.

In the case of dependent employees who have a contract of employment, income is taxed with a unique tax and applied monthly. The rate ranges from 0– 45% depending on the amount of income. This tax is paid on a monthly basis and retained by the employer.

Independent employees who do not have a contract of employment ie those who practise their profession freely (such as professionals, technicians, etc) do not have a second category tax. Income earned by this type of person is directly taxed with the complementary global tax, with a progressive rate ranging from 0– 40%. This rate will depend on the income amount and is applied annually.

COMPLEMENTARY GLOBAL TAX

This tax is progressive, with rates from 0– 40% annually and should be applied when a taxpayer receives income during one year from one or more sources.

THE TAXABLE BASE AND ITS CALCULATIONS

Earnings from all sources are included in calculations.

Earnings corresponding to dividends or withdrawn profits are added and calculated to determine the taxable amount according to the information the company provides on those earnings and the following general guidelines:

- Dividends or withdrawn profits must first be declared as taxable profits. Profits can only be distributed after they have been taxed
- Profit distribution carried out by the company must be imputable to the oldest taxable retained profits (FIFO)
- First category tax corresponding to taxable profits obtained must be added to determine the level of taxation. Later, the rate of the first category tax (25%) is applied on the tax base in order to apply the credit to the global complementary tax.
 - It should be noted that in recent years the level of first category taxation has been variable.

ADDITIONAL TAX

FOR A NATURAL OR LEGAL PERSON, FOREIGN AND/OR NON-RESIDENT

In general, additional tax is applied to revenue of Chilean origin to legal nationals or residents abroad when money is made available from Chile to a resident abroad. It has two modalities and according to the type of revenue, could be a tax of retention or of annual declaration.

RATES

The general rate of additional tax is 35%, though different rates apply in some cases.

For interest payments, the rate is 35%. However, if the operation has been authorised by the Central Bank of Chile, the rate is 4%.

Payment for services rendered is taxed at a rate of 35% of gross revenue, except for technical consulting or personal services, which are taxed at a rate of 20%.

Any payment for services rendered abroad is taxed at a rate of 35%. However, there are some payments exempt from this, such as transport services rendered abroad. Foreign companies involved in maritime transport and services related to and from Chile have a tax level of 5%. The tax is not applicable to cargo ships from countries which do not tax Chilean cargo ships at a similar rate.

Amounts paid for the lease of imported capital goods, with or without a buyer's option, are susceptible to the payment of excise duty at 1.75%.

Insurance premiums contracted by businesses not established in Chile to insure the plant, other goods, life or medical assistance of residents or individuals with Chilean addresses, are liable to rates of 22% and 2% reinsurance.

Remittance of profits and dividends are taxed at a rate of 35%.

Royalty payments are taxed at a rate of 30%. However, if the payment is related to films shown on TV or at the cinema, the level is reduced to 20% and if it is related to the use of editing rights or authors of books, this is reduced to 15%.

CALCULATION OF TAXABLE PROFITS

Dividends or profit distribution must firstly be declared as taxable profits and following that, as distributed revenue. Distribution of profits is imputed starting at the oldest retained profits.

First category tax corresponding to taxable profits obtained must be added to determine the level of taxation. Later, the rate of the first category tax (20%) is applied on the base of this tax in order to apply the credit to the global complementary tax. It is important to mention that first category tax rate has changed over time, in the same way as if the revenue recipient was Chilean and subject to personal tax in Chile.

TAXES ON PAYMENTS FOR BONUSES OR ROYALTIES

In accordance with the Chilean tax law, bonuses paid abroad are subject to a deduction tax of 30%. This is a deduction tax which must be completed the following month after paying the bonus.

In case of payments for bonuses to people residing or domiciled in countries where Chile has signed agreements with to avoid double taxation, the regulations of the agreement must be applied.

From 1 January 2007, certain bonuses incur a reduced rate of 15%. This is the case for bonuses related to the use and operation of invention patents, utility models, industrial drawings and designs, diagrams or topography of integrated circuits, new varieties of vegetables and computing programs about any type of physical support. This reduced rate will not be applicable in cases where payments are paid to a related party or to a country considered as a tax haven.

For tax purposes, the payment of bonuses paid to related companies are only deductible up to 4% of the sales total and services of the year, unless the tax applied in the beneficiary country is 30% or higher. The part of the bonuses which exceeds the non-deductible limit of 4% is not subject to the unique tax with a rate of 35% established in the article 21 of the Income Tax Law.

Payments made abroad to entities without domicile or residence in Chile for engineering or technical works or professional or technical services (detailed in reports or plans) are subject to deduction tax of 15%. However, the rate will increase to 20% if the payments are paid to people residing in a fiscal haven or related.

The additional tax deducted on the technical assistance related to exports can be recovered as a provisional payment of the income tax provided that certain requirements are complied with.

Certain services rendered abroad in relation to exports are exempt from additional taxes when certain requirements are met (when they are not associated with bonuses, technical consulting or interests).

The bonuses paid to producers or dealers of cinema or video films are also subject to a rate of 20%. The bonuses paid for copyright and editions are subject to the tax rate of 15%.

CAPITAL EARNINGS

As a general rule, capital earnings are considered normal sources of revenue and are subsequently taxed in the first category and with the global complementary tax or additional tax according to each particular case, but only after the disposal of shares.

There are some exceptions to this rule, which are set out below.

Capital earnings derived from the disposal or discontinuation of shares in a company may be subject to first category tax (20%) on earnings, but only if:

- The shares have been owned for more than one year
- The seller does not carry out the operation within a business or regular activity
- The buyer is not a related party to the seller.

Shares of open public corporations bought and sold on the stock market and published in a list by the Internal Revenue Service are exempt from tax.

Capital earnings from the liquidation of immovable assets carried out by people who are not obliged to declare an effective income in the first category, is exempt from tax if:

- The property has been owned for more than one year
- The seller does not carry out the operation within a business or regular activity
- The buyer is not a related party to the seller
- The immovable asset is not part of a company's assets that must be declared for its income based on complete accounting.

If the goods are not disposed of according to these exceptions, earnings are taxed, just like any other profit resulting from a business activity.

SPECIAL REGIME

STATUTE OF FOREIGN INVESTMENT

Under the statute of foreign investment (DL 600), which was repealed by Law 20.780 and later modification in Law 20.899. Current government is working to define a new statute, considering also that Chile is subscribed to OCDE and has signed double- taxation agreements with several countries, which has redounded in changes to foreign investment law.

Investment Fund of Foreign Capitals

Under the legislation of foreign investment fund, a foreign investor can also choose a special reduced tax. To receive this benefit, there is the obligation to maintain investments in Chile for at least five years. The fund is taxed with a fixed rate of 10% on shipments.

OTHER SPECIAL AGREEMENTS FOR CERTAIN REGIONS OF CHILE

The law allows tax exemption in some regions of Chile as set out below:

- Easter Island has a duty-free zone which is free from all taxes and contribution on goods located on the island and its earnings; this applies equally to industries related to the territory which are developed by people with an address on the island
- The cities of Iquique and Punta Arenas have a tax-free zone. In this region, first category taxes are not paid. However, any additional or personal tax is applied and as first category tax is not paid, there is no rebate when profits and dividends are remitted.

- In the area of Navarino and the communities of Primavera and Porvenir in the extreme south of the continent, there is a special tax regime where first category tax is not paid. Nonetheless, a rebate is granted to any additional or personal tax according to the equivalent first category tax which would have needed payment
- The provinces of Arica and Parinacota in the north of Chile have a special rebate allowance of first category tax equivalent to 20% of the physical value of goods, of the fixed asset acquired or made during trading.

TAX SUPERVISING AUTHORITY

The Service of Inland Taxes has the right through its statute to regulate taxes and tax contributions codes, as well as laws for applying tax regulations and administrative auditing.

Every individual or business acting on behalf of the taxpayer must legally certify their representation to the Service of Inland Taxes. The mandate must be made in written form. The Service of Inland Taxes accepts such representation without proof of identity but is able to ask for ratification or proof of association from the taxpayer within a determined deadline. If this procedure is not followed, the application will not be accepted.

Any notification by the service will be done by letter and sent to the addressee, except where an alternative preference is expressed.

All notifications will be sent to the address indicated by the taxpayer in their declaration at the beginning of business activities or another address expressed in a previous tax declaration.

ACCOUNTING NORMS ON TAX MATTERS

The law requires that taxpayers use accounting systems and inventories which clearly reflect their business activities.

When it is necessary to carry out an inventory to determine the profits of a taxpayer, the regional director will use the powers entrusted to them to ensure the actual gross revenue is reflected in accounts.

Except where a wish to the contrary is expressed, taxable incomes and revenues will be determined according to an accounting system which the taxpayer has used regularly to calculate their revenue. However, if the taxpayer does not use a recognised system or if it is felt that the system used does not reflect the taxable revenue, all accounts will need to be redone in accordance with an approved system.

Balances must be over a 12-month period, except where they are at the beginning of business operations or where the taxpayer was initially authorised a change in the balance date.

Balances should run until 31 December each year. Nevertheless, the regional director could authorise special cases where the balance runs until 30 June, at his/her discretion.

Every individual/business must certify their income via a registered accountant, except where a law exists to establish the contrary.

Accounting books must be kept in Spanish and their values expressed in the manner indicated in article 18, being kept by the taxpayer alongside appropriate documentation in case of spot-check inspections. Foreign currencies can be used in accounting and converted into the national currency.

If the main currency used is not the Chilean peso, the regional director can allow the accounting operations to be carried out in another currency, as long as this does not devalue the taxable income which must be paid.

Without affecting the Code of Taxation or laws relating to international capital, foreign currencies will be recorded in accordance with the following guidelines:

- The exchange rate will be calculated as an average of the rate of the month prior to the money entering the business account
- In the case of international goods entering Chile, their value will be fixed according to the corresponding wholesaler price at the point of entry. As a result, any difference in value recorded will affect the results of the respective financial year.

7 – ACCOUNTING & REPORTING

In Chile there are several institutions in charge of regulating business. These are discussed below.

THE CHILEAN SCHOOL OF ACCOUNTANCY

This is the main institution which regulates the profession in Chile.

Originating from the creation of a national register of accountants in 1932 (accrediting them in law no. 5.102) and later in 1958, the Chilean School of Accountancy (in law no.13.011) reformed in 1979 as the current School of Accountancy AG. This promotes common standards of good practice, development and protection for the accounting profession. It also publicises the role of the profession amongst the business community and supervises progress, prestige, ongoing improvements and prerogatives for everyday practice. The aim is to incorporate accountancy into cultural, social and economic development of the country, as well as to maintain professionalism among associates and to set out accounting norms.

THE CHILEAN, COMISION PARA EL MERCADO FINANCIERO – CMF (COMISSION FOR FINANCE MARKET)

This is an autonomous corporate body affiliated with the Chilean government through the Ministry of Finance.

It is responsible for the supervision of all activities and entities involved in Chilean securities and insurance markets. The CMF enforces compliance with all laws, regulations, by-laws and other provisions governing the operation of these markets. The CMF has among its main objectives to maintain honest and correct policy in the markets it supervises, achieving this through opportune and wide distribution of relevant information and collaborating with investors, insurers and the general public. These are essential activities for the development and correct operations of those markets. Transparency of policy is a principal strongly encouraged by the Chilean government and linked to the strategy of bringing together state services and citizenship.

THE SUPERVISOR OF BANKS AND FINANCIAL INSTITUTIONS (SBIF)

This was created in 1925. It is an autonomous public institution and its function is to supervise the banking industry and other financial institutions to protect depositors, creditors and the public interest.

Its statute is found in title I of the revised text of the General Banks Law according to the decree subject to law No. 3 of the Ministry of Finance of 1997 and related to the government through this ministry. The head of this supervising institution is the superintendent, who is appointed by the president of the Republic.

ENTITIES REQUIRING AUDIT

Companies in Chile that are public and float shares on the Chilean stock market are known as open public companies and are audited by the Supervisor of Public Companies.

The companies must be audited by auditing companies which are authorised by the Supervisor.

Banks and financial institutions controlled by the SBIF must be audited by auditors registered with this regulating institution.

In private limited companies, auditing is requested by directors when it is deemed necessary. In Chile there are a large number of companies requiring auditing services and it is therefore a very dynamic market.

8 – UHY REPRESENTATION IN CHILE



UHY GUIÑAZÚ & ASOCIADOS SPA. CHILE



CONTACT DETAILS

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CONTACTS

Liaison contact:	Juan Olivares H.
Position:	Managing Partner
Email:	jolivares@uhy-cl.com

Year established:	2005
PCAOB registered?:	Yes
Number of partners:	3
Total staff:	25

OTHER IN-COUNTRY OFFICE LOCATIONS AND CONTACTS

None

BRIEF DESCRIPTION OF FIRM

Operates in Chile since 2005. During its existence, the company has achieved recognition for providing Audit, Accounting and Tax services in Chile.

SERVICE AREAS

Outsourcing accounting , Auditing, Payroll and Confidential Payroll, and Tax services.

SPECIALIST SERVICE AREAS

Audit, Tax and Accounting

PRINCIPAL OPERATING SECTORS

Productive industries, construction companies, laboratories, mining companies, mining services, explosives, banks and factoring, sports clubs, associations, certification bodies, commerce, manufacturing, Companies of the State of Chile, etc.

LANGUAGES

Spanish, English and Portuguese

CURRENT PRINCIPAL CLIENTS

Bureau Veritas S.A., Club Deportivo Unión Española SADP., Agrícola Schuhmacher S.A., Laboratorio Boston S.A., Famesa Explosivos S.A., Piteau Associates Chile SpA., Transmark Chile S.A., VisualK S.A., Corporación Compañía de Cervecerías Unidas S.A., Samsung Engineering Chile, Posco Engineering & Construction Co. Ltd. Agencia Chile.

OTHER COUNTRIES IN UHY CURRENTLY WORKING WITH, OR HAVE WORKED WITH IN THE PAST

Argentina; Spain; USA; UK,

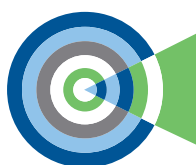


The network
for doing
business



BRIEF HISTORY OF FIRM

In 2005, the firm was created with the partners Mrs. Ximena Guiñazú and Mr. Antonio Acevedo, mainly with Tax and Accounting outsourcing services. In 2009, Mr. Juan Olivares was incorporated as a Partner, creating the Audit, Consulting, and Confidential Payroll department.





LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

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