



PANAMA – 2009 BUSINESS ENVIRONMENT

Currency: Panamanian Balboa (PAB)

Foreign exchange control: The state-owned bank, *Banco Nacional de Panamá*, is responsible for the supply of U.S. dollars from the U.S. Federal Reserve Bank of New York under a treaty signed in 1904. There are no restrictions on other banks importing U.S. dollars into Panama.

Accounting principles/financial statements: As from 2009, Panama will have converted to IFRS. Historically, Panama utilised accounting principles that complied with the International Accounting Standards Committee. The only companies required to file audited financial statements with the regulatory authorities are: banks, insurance and re-insurance companies, and companies registered with the National Securities Commission as issuers or holding a license granted by the National Securities Commission. Companies operating in the Colon Free Zone and other free zones located in Panama are required to maintain (as opposed to file) audited financial statements on their premises.

Principal business entities: These are the corporation (*sociedad anónima*), limited liability company, general partnership, joint venture, branch of a foreign corporation and foreign corporation.

Foreign banks have long had a significant presence in Panama and represent one-third of all financial institutions, which are regulated by the Banking Superintendency. All major banks are based in Panama City. Foreign banks have long had a significant presence in Panama and represent one-third of all financial institutions, which are regulated by the Banking Superintendency. All major banks are based in Panama City.

TAX ID NUMBER

Registry of Contributor (R.U.C.)

It is the number of tributary identification of each contributor, created by the Main Directorate of Income, in order to establish one better tributary justice and a more effective control of the tributary fulfillment of the natural and legal people, that they

cause or they must retain taxes in regard to the activities that they develop.

For such effects it will be understood that this number of tributary identification will be:

a. For the natural people: The number of Personal Identity card.

b. For the legal people: the number of inscription in the Public Registry, Section of Mercantile Office.

Example:

The structure is as it follows:

RUC: **63823 – 71 - 356147**

Nearly Always it is 13 numbers series. That is to say, 13 characters.

63823: The first 5 numbers: Indicates number of folio in which the company is registered.

71: The following two numbers: Indicates number of Image in which the company is registered.

356147: The following two numbers: Indicates number of File in which the company is registered.

The RUC number is unique.

Corporate taxation:

Residence – A company is resident if its principal business is carried out in Panama.

Basis – Panama operates a territorial system, whereby residents and nonresidents are taxed only on their Panama-source income. Income that does not arise in or not derived from Panamanian sources is not subject to tax in Panama.

Taxable income – Taxable income includes all income derived from business activities in Panama less expenses incurred wholly and exclusively in the



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production of assessable income or the conservation of its source are deductible for income tax purposes.

Taxation of dividends – Dividends derived from a Panamanian source are taxed at source at a flat rate of 10% (20% if bearer shares), which is considered a final tax. The subsequent distribution of such dividends will not be taxed if tax already has been withheld at the 10% rate. Since Panama taxes on a territorial basis, foreign-source dividends are also exempt. If a corporation does not declare dividends in a particular year, it must pay a “retained earnings tax” or minimum dividend tax, amounting to 10% (20% in the case of bearer shares) of 40% of its after-tax income.

Capital gains – Taxpayers pay a flat 10% rate on capital gains.

Losses – Losses may be carried forward for 5 years at a maximum rate of 20% per year. The loss deduction may not exceed 50% of taxable income of any particular year. A loss that is not deducted during a year within the 5-year period may not be deducted in a subsequent period.

Rate – Tax liability is assessed on the greater of a flat rate of 30% on net income or 1.401% of gross taxable income, the latter known as the alternative minimum tax regime or CAIR.

Surtax – No

Alternative minimum tax – Tax is assessed on 1.401% of gross taxable income. Taxpayers (at their option) can request that the CAIR not be applied when net operating losses or the effective tax rate is higher than the nominal 30% rate. Such a request must be made to the tax authorities and accompanied by prescribed documentation. The authorities have discretion to grant an exemption from the CAIR for up to 3 years.

Foreign tax credit – No

Participation exemption – No, but see under “Taxation of dividends”.

Holding company regime – No

Incentives – Various investment incentives provide for lower tax rates or an exemption. The Howard (Panama-Pacific) Special Economic Area provides for a tax exemption on the following activities: (1) offshore services; (2) the sale and transfer of shares between companies established within the area; (3) the transfer of goods and services between companies within the area; (4) the sale of goods or services to visitors and passengers while in transit to other countries or to vessels crossing in the Panama Canal or aircraft using authorised ports to overseas destinations; (5) aviation and airport services; (6) manufacturing of high-tech products; (7) logistic services; and (8) call centre services. In-bond manufacturing companies may import equipment and raw materials on a duty-free basis and subsequently export 100% of production, receiving a tax-free benefit. Such companies also do not have to pay VAT on imports. Based on the territoriality concept, the tax code considers gains derived from “re-invoicing” operations as income not derived in Panama, provided the merchandise being re-invoiced does not enter Panamanian territory.

Companies that hold licenses as site offices for multinational corporations are exempt from income tax on services provided to nonresident entities that do not derive Panama-source income, and Panamanian VAT on export services to nonresidents that do not generate taxable income in Panama.

Incentives also are available in the Petroleum Free Zones, Colon Free Zone and Export Processing Zones.

Withholding tax:

Dividends – Dividends paid to nonresidents for nominal shares are subject to a 10% withholding tax; the rate is 20% for bearer shares.

Interest – Interest payments made to nonresidents are subject to a 15% withholding tax (50% of the interest is subject to the normal 30% corporate tax rate).

Royalties – Royalty payments to nonresidents may be subject to a 15% withholding tax if the payments



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benefit a Panamanian resident or if the expense has been deducted in Panama and the service was performed outside the country. When the payments are made by a taxpayer carrying on activities outside Panama and they are made in connection with transactions entered into, financed or executed outside Panama, no withholding tax is levied. A 30% rate applies to services rendered in Panama.

Branch remittance tax – Branches of foreign corporations must pay 10% of their after-tax income as a 'complementary tax.'

Other taxes on corporations:

Capital duty – No

Payroll tax – In addition to social security contributions (see under "Social security"), Panama imposes an educational insurance tax which the employer must pay at a rate of 1.5% of an employee's remuneration. Employers also pay workmen's compensation insurance premiums at rates ranging from 0.98% to 5.67% of remuneration (depending on the risk associated with the occupation).

Real property tax – Real estate located in Panama is subject to a real estate tax at rates ranging from 1.75% to 2.1%.

Social security – Employers are required to make social security contributions in an amount equal to 11.25% of their employees' total remuneration and to withhold 8% on behalf of the employees and remit it to the authorities.

Stamp duty – Revenue stamps must be attached to all invoices and other official accounting documents evidencing the transfer of goods or rendering of services not subject to VAT. Accounts receivables, checks, bank drafts, notes and similar documents also are subject to this tax. Stamp duty generally is 0.001%.

Transfer tax – Transfers of real property are subject to a tax at a rate of 2% of the greater of the value in the deed of transfer or the cadastral value on the date of transfer.

Other – Municipalities are allowed to impose a tax on gross sales in an amount based on the type of activities carried out by a business. A business carrying on more than 1 business activity may be taxed on each activity. Municipal taxes, which are deductible, generally range from USD 10 to USD 1,000 per month.

Anti-avoidance rules:

Transfer pricing – Panama does not have any formal transfer pricing legislation, but the tax authorities have the right to address abuses in prices charged between related entities.

Thin capitalisation – No

Controlled foreign companies – No

Other – No

Disclosure requirements – No

Administration and compliance:

Tax year – The calendar year is used, although a special 12-month fiscal year maybe requested from the authorities in certain cases.

Consolidated returns – Consolidated returns are not permitted; each company must file a separate tax return.

Filing requirements – Companies must file a tax return within 90 days after the end of the fiscal year, but a 2-month extension may be obtained upon request. Advance payments must be made 3 times during the year, based on an estimate of the income for the current year. A final payment of tax is due at the time the return is filed. With the exception of companies operating in a free zone, corporations with no Panamanian-source income are not required to file an income tax return.

Penalties – Interest is charged on late payments.

Rulings – No

Value added tax:



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Taxable transactions – VAT is levied on the invoice value of the sale, lease or transfer of goods or services with the exception of intangibles.

Rates – The standard rate is 5%, with a reduced rate of 10% for alcohol, 15% for tobacco and an exemption for food, medicine, medical services and crude oil.

Registration – Registration is compulsory for businesses with monthly turnover exceeding USD 3,000 or annual turnover of USD 36,000.

Filing and payment – VAT returns must be filed monthly.

Source of tax law: Fiscal Code, VAT Law

Tax treaties: Panama has not concluded any tax treaties.

Tax authorities: Ministry of Economy and Finance, Revenue General Office, Cadastral General Office, Customs General Office

International organisations: WTO, IMF, G-77, UN

For further information about this issue, please contact: info@crlacorp.com

✚ CREDIT REPORT through the years:



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