



→ International Law Firm Alliance
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López, Villanueva & Heurtematte -LOVILL- is a law firm based in Panama City, Republic of Panama. The firm's partners are Isabel Cristina López, Patricia Villanueva Martinelli and Elizabeth Heurtematte Kochman. LOVILL is a leading full-service Panamanian law firm with experience in providing legal advice to local and international corporations, as well as individual investors. LOVILL's main areas of expertise are: Real Estate, Corporate and Tax, Mergers and Acquisitions, Litigation and Arbitration, Labour and Immigration, Intellectual Property, Securities, and Administrative Law. LOVILL is an expert in the Panamanian market and has strong connections with its key players. Our team works as a partner with its clients to help them navigate through the intricacies of the Panamanian business culture and legal system.

Our firm offers legal services in accordance with the highest standards of leading international law firms, without the cumbersome administrative processes normally associated with larger firms.

Our trademark is its commitment to meeting each client's needs with comprehensive, accessible, cost-effective and personalised service. The firm offers integral solutions, and one-stop shop for all its client's needs in Panama and the Latin American region, through strategic alliances with other leading law firms.

Main areas of practice

■ **REAL ESTATE LAW:** LOVILL has highly qualified professionals offering legal advice on all matters related to Real Estate law in Panama, such as: purchase and sale of properties, residential and commercial real estate developments, incorporation of property into condominium structures, drafting of co-ownership regulations, zoning changes, tax planning, development permits, contracts, and development planning in general. LOVILL's real estate law practice is highlighted by specialized advice on ownership of "possessory rights" in Panama,

and titling. Our firm advises a number of Panamanian and international real estate development and construction companies throughout the different phases of their projects, always providing fast, accurate, strategic and comprehensive legal advice. LOVILL understands the fast pace of the real estate business and the client's need for timely responses.

■ **CORPORATE AND TAX LAW:** LOVILL assists its clients in the incorporation of a number of offshore vehicles such as corporations, private interest foundations, limited responsibility companies, and trusts. Additionally, our firm offers comprehensive advice on corporate structures, transactions, tax planning, and all types of commercial contracts.

■ **MERGERS AND ACQUISITIONS:** LOVILL's attorneys have extensive experience in mergers and acquisitions of local and international corporations in different industries.

■ **LITIGATION AND ARBITRATION:** LOVILL has an outstanding bilingual litigation and arbitration team with experience in complex civil and commercial cases.

■ **ADMINISTRATIVE LAW:** LOVILL assists international corporations and individuals to establish in the Republic of Panama. Our team advises clients on local taxation, licensing, business permits, contracts, employment, immigration, and all other matters associated with setting up a new business, venture or branch office in the Republic of Panama. LOVILL represents international and local clients before administrative and regulatory agencies in Panama in relation to financial, environmental, port, energy, consumer, securities, agricultural and tourism projects, among others. LOVILL advises clients on public biddings, including comprehensive legal assistance on the interpretation of bid specifications, obtention of permits, and homologation of the tendering process.

■ **IMMIGRATION LAW:** LOVILL offers comprehensive advice on immigration law. Its services include an analysis of each client's situation and needs, guidance on the different types of visas available, and assistance to select the visa type that best fits each client. LOVILL provides personalised service, accompanies and guides the client through the entire process, and offers timely responses and a systematic follow-up of the client's case.

■ **LABOUR LAW:** LOVILL advises clients on drafting, reviewing and terminating employment contracts, obtaining work permits for foreign nationals, and complying with labour laws. Likewise, LOVILL represents clients before the Conciliation Boards of the Ministry of Labour and Labour Development (MITRADEL).

■ **INTELLECTUAL PROPERTY LAW:** Our firm offers registration of trademarks and patents, as well as representation in patent and trademark litigation.

■ **BANKING AND SECURITIES LAW:** LOVILL provides advice to banks, securities exchanges, brokerage firms, investment managers, and other organization in regulatory matters, including compliance, licensing, and related processes. LOVILL's Banking and Securities attorneys are

experts in carrying out due diligence in connection with the purchase and/or sale of banks, brokerage houses, security advisory firms, among other financially regulated entities. LOVILL's attorneys have also experience in the preparation, negotiation and review of financing contracts, secured transactions, credit swaps, option contracts, repurchase agreements and other related and complementary financial contracts.

Clients

Our client portfolio includes: International banks established in Panama, local and international construction companies, telecommunications companies listed on the Israel stock exchange, local and international brokerage firms and investment funds, individual investors, leading South American manufacturer of oil and hydrocarbon pipelines, shipping companies, local and international residential and commercial real estate developers, foreign law firms, international hotel operators, international energy production companies, and national distributors, among others.

Introduction to the Republic of Panama

The Republic of Panama is a democratic country with a population of 3 million 405 thousand 813 people of which 880 thousand 690 live in the capital city according to the last census in 2010. Some economic points of interest are:

- Dollarized economy for over 100 years.
- No central bank, so no risk of convertibility or transferability.
- Service Economy that represents over 70% of the Gross Domestic Product (GDP).
- Strategic role due to location/logistics center: Panama Canal, Ports, Commerce Hub (Colon Free Zone), Transportation ("Hub of the Americas" for Copa Airlines), Telecommunications.
- Solid regional financial center: Banking, insurance, incorporation of companies, ship registry.
- Incentives Law for regional headquarters of multinational companies: there are more than 80 multinational companies which include companies such as Caterpillar, 3M, Procter & Gamble, Dell, Maersk, LG, among others.

Panama's economic growth has been one of the highest in Latin America during the recent decade, with an average GDP growth above 8% between "2006 to 2012" (World Bank). Of the \$ 8.876 billion in Foreign Direct Investment income received by Central America in 2012, Panama was the most favored with \$3.020 billion (34%). The World Economic Forum recognized Panama as the 2nd most competitive economy in Latin America in the "Global Competitiveness Report 2012-2013".

The banking sector is recognized as one of the strongest in the region with assets over \$ 95 billion. In addition to the financial sector, Panama, due to its geographical positioning, has the largest Latin American ports and Free Zone (Colón Free Zone) with an area of 240 acres (2.4 km²) in size, being the largest in the Americas and the second in the world. According to the latest report from the Inter-America Development Bank (IDB) (July 2013), Panama is the third country that best manages the digital divide only behind Barbados and Brazil. Another point of interest is the importance of Panama as the "HUB" of the Americas since Copa Airlines operates 134 daily flights to over 45 destinations in 30 countries.

The Department of Economy and Finance, prepared the state budget for 2014 based on an 8.5% growth, however the International Monetary Fund (IMF) predicts that the Republic of Panama will grow a 9% by the end of 2013.

Throughout its history Panama has had an important banking center, a byproduct of its first regulation in 1970 and its 1927 corporate law that has attracted major foreign investment in various sectors although mainly dominated by the banking sector. According to figures of the Panamanian Banking Association, International Banking Center ("IBC") and The National Banking System ("SBN") 2012 closed with a 10% increase (\$ 89, 771. 9 billion) and 10.5% (\$ 72, 937 million) respectively.

As for the IBC, the most important banking product has been the credit portfolio shares with 62.4%, followed by liquid assets shares with 17.4% and investment securities shares with 16.4% showing proof of the dynamism of the economy in this country. On the other hand, the increase recorded by the SBN has been largely due to commercial and mortgage sectors which as a whole accounted for 37.3% growth and along with the personal consumption sector contributed 75% of SBN's total appropriations.

The Panama Canal, one of the wonders of the world, annually gives the Panamanian Treasury between \$ 700 and \$ 800 million dollars. Although, in 2012, it generated and consequently gave the Treasury the sum of \$ 1.043 billion dollars, this being a record in the 12 years that the Panamanian government has administered the Panama Canal. Once the Panama Canal expansion concludes, these profits will increase and likewise the country's economic growth. Other sectors with high growing economy were: construction, due to public and private investment in 2012 a GDP of \$ 1.802 billion was recorded and an estimated increase \$ 1.995 billion GDP will be reported by the end of 2013; tourism in 2012 only in hotel and restaurant services generated more than \$ 100 million; manufacturing grew by 2.3% during the first quarter of 2013 all making the Republic of Panama a safe country for foreign investment.

With the signing of double taxation treaties with the following countries Panama is considered to be transparent and to have a good reputation: Barbados, South Korea, United Arab Emirates, Spain, France, Holland, Ireland, Israel, Italy, Luxembourg, Mexico, Portugal, Qatar, United Kingdom, Czech Republic and Singapore, which has earned Panama worldwide recognition.

Likewise, Panama has signed treaties and trade agreements with the following countries and organizations: Latin American Integration Association (LAIA) Canada, Chile, Colombia, Costa Rica, Cuba, El Salvador, United States, Guatemala, Honduras, Israel, Mexico, Nicaragua, Peru, Dominican Republic, Singapore and Taiwan.

Touristically Panama has great attractions for its warm climate, beaches and historic sites such as the Casco Antiguo, considered by UNESCO as a cultural heritage of humanity. It is a cosmopolitan city with different cultures, races and religions, providing a favorable environment for commerce and investment.

→ Legal System in the Republic of Panama

Corporations Regime and Private Interest Foundations

■ CORPORATIONS: The following are among the most significant advantages for Corporations:

- No capital subscription required, nor the payment of any amount in order to begin activities.
- In terms of the object of the Corporation, Panamanian law is broad, since as well as authorizing the objects described in the Articles of Incorporation, it also enables the Corporation to engage in any lawful business whether or not similar to any of the objects specified in the Articles or its amendments. Business can be conducted in Panama or anywhere else in the world.
- Panamanian law does not require a certain number of shareholders; therefore one person can own all the shares and consequently the Corporation.
- The owner of the Corporation may have a broad general power of attorney, allowing the owner to carry out all kinds of activities on behalf of the Corporation.
- All shares into which the capital is divided may be issued to bearer. In this case no evidence, nor the need to disclose the identity of the shareholders. The above is without prejudice to bank policies that increasingly require shares to be issued in registered form.
- The Corporation may create and issue one or more classes of shares with the designations, preferences, privileges, voting powers, restrictions, requirements and other rights determined by the Articles of Incorporation. Thus allowing the creation of multiple-voting shares, banned in many European and American legislations.
- In terms of restrictions on shares, the Corporations Act authorizes the provision in the Articles of Incorporation of preemption of the Corporation, or any of its shareholders, to buy shares that another shareholder wishes to transfer.

In terms of taxes, as will be explained later in the section on Taxation, the Republic of Panama is governed by the principle of territoriality. Therefore, any Panamanian corporation will not be taxed on income derived from a foreign source, that is to say that, commercial activities abroad are exempt from paying taxes in this country.

Recently in the Republic of Panama, action was taken to immobilize bearer shares already issued and those subsequently issued by Panamanian corporations. The purpose of these measures is to maintain bearer shares under the custody of a natural person or legal entity, named custodian that is duly authorized to exercise as such. It is important and noteworthy that bearer shares may continue to be issued by Panamanian corporations and transferred by shareholders. These measures will not be put into effect until August 7, 2015. As to the authorized custodians, they may be fiduciaries as well as law firms that are duly registered.

■ **PRIVATE INTEREST FOUNDATIONS:** One of the most popular legal entities in the Republic of Panama is the private interest foundation. This country is one of the few Latin American countries that offer the possibility of creating a private foundation.

The private interest foundation is simply a legal agreement constituted by a unilateral will of a person named founder, which transfers some or all of its assets (assets that can be subject to transferred) to be managed by a foundation council for the benefit of one or more beneficiaries. They differ from corporations as they are not a commercial entity and do not have shareholders.

Private interest foundations offer many advantages that corporations cannot meet. The founder has the ability to revoke the foundation upon decision; provides confidentiality in relation to the management of assets and beneficiaries, the transferred assets are not part of probate proceedings after the death of the founder or the beneficiaries. It is also important to note that the transfer of assets from the founder to the foundation is considered a donation and therefore such transfer is not subject to any tax levy.

Private interest foundations in the Republic of Panama were inspired by Liechtenstein foundations (one of the first countries to legislate on private foundations). However, the Republic of Panama has demonstrated to have a more viable model providing simplicity during and after its formation. On the other hand, one of the most recent laws on private foundations was promoted by Jersey (widely recognized as an "offshore" jurisdiction) but it does not have advantages over Panamanian private interest foundations either. Among the most significant advantages between the Panamanian private interest foundation and those mentioned above we find the following:

- The Panamanian private interest foundations offer freedom and flexibility in the regulation of various topics such as administration, the reservation of rights and the right to information, while in Liechtenstein and Jersey; they are subject to the law.

- The Panama Private Interest Foundations do not require the appointment of a founding board member duly authorized by the state to exercise that function as in Jersey, nor requires the issuance of certificates by the foundation council regarding the foundations assets and capital as in Liechtenstein for the proper incorporation as a legal entity.

- Panama Private Interest Foundations do not require the payment of capital for their constitution, in other words, it is sufficient to only declare the amount of capital of such entity. In Liechtenstein, capital, which must be a minimum of 30 thousand dollars, euros or Swiss francs, must be available to the members that form part of the foundation council before its constitution in order for them to certify before the Public Registry that capital has been duly paid by the founder. On the other hand, in Jersey there is no form of capital, however if various assets will be transferred to the foundation, they need to be detailed in the foundation charter. In the Republic of Panama, the founder is not required to declare in the foundation charter the assets that make up the capital so to some extent there is confidentiality thereof.

- The Panamanian private interest foundations provide confidentiality of beneficiaries, while in Liechtenstein it is necessary to declare in the foundation charter who will be the beneficiaries of the foundation. Additionally, foundations in Liechtenstein, depending on their use, are subject to ongoing research by the state while in the Republic of Panama, this situation is not supported by law.

Commerce Regime

For the effect of the corporation regime and the present business guide, the commerce regime includes only the Notice of Operation formerly known as the business license.

NOTICE OF OPERATION: Any natural or legal person may exercise commercial or industrial activities within the Republic of Panama. The application and issuance of the notice of operation is the only procedure required to begin commercial or industrial activities in this country. It is important to mention, that the notice of operation should state a commercial name, which may not be similar to one already existing.

Trust Regime

The trust is an institution through which a settlor transfers property to a trustee in order to administer such property for the benefit of one or more of the beneficiaries. Unlike private interest foundations, the trust is a legal entity and therefore the owner of the property is the trustee. However, as well as private interest foundations, any assets that can be subject to transfer can be given in trust.

One of the peculiarities of the Panamanian law is that any person engaged in the trust business must apply for a license with the Superintendence of Banks. Therefore, any trust will usually

be managed by a company with experience in these matters which helps the trust produce greater benefits. Trusts are usually used as investment vehicles where the trustee uses the assets transferred to transact in the stock market; they can also serve as guarantors of bank bonds and as a means of wealth management. Dynamism is one of the main virtues of the trusts in the Republic of Panama.

Foreign Investment Regime

The Republic of Panama currently has no specific legislation on direct foreign investment. Foreigners rights are stated in articles 19 and 20 of the Constitution of the Republic of Panama, which dictate that in this country equal treatment to both domestic and foreigners prevail.

The Republic of Panama has a law to protect investment in the country. In Article 2 of this law, equal treatment is mandated for both domestic and foreign investors and companies. Additionally, through this article, the Republic of Panama aims to ensure the free disposition of the funds generated by investments.

For the reasons previously stated above, foreign investment does not require prior authorization from any authority, except for regulated activities such as: banking, which requires a license issued by the Superintendence of Banks and insurance activities and reinsurance, which also requires a license issued by the Superintendence of Insurance and Reinsurance Companies of the Republic of Panama.

Monetary Regime

In the Republic of Panama both the Balboa and the U.S. dollar are used. Both currencies for economic effect have the same value since 1904. The economic development that the Republic of Panama has had in recent years is a result of the use of the U.S. dollar as currency analogous to the Panamanian Balboa. Similarly, the economic product of the monetary regime has been possible due to historic low inflation, the absence of a central bank, free transfer of capital and an international financial center proven to be solid.

Taxation Regime

The Republic of Panama has traditionally had a territorial taxation system that has been one of the pillars that has led to its development and economic growth. The following will detail the different types of taxes in relation to this business guide, with the caveat that if not stipulated otherwise, the revenue generated outside Panamanian territory and not from Panamanian sources are tax exempt.

■ **TRANSFER TAX OF MOVABLE GOODS AND SERVICE DELIVERY (ITBMS):** The ITBMS, known in other countries as the VAT or IVA, is the tax payable by way of goods or services purchased in shops in the Republic of Panama. In 2010, the ITBMS increased to 7%, there was an increase of 2% from the 5% tax previously paid.

In terms of movable goods, this tax should be duly paid except in cases where the law provides exceptions. Goods such as items for the care of infants, food, freight and air, sea and land freight, sea and land transport of passengers, goods within the free zone (including transfer between them and in the customs area with document endorsement), logistics operation services performed in free zones and special economic zones are exempt from ITBMS. In the case of services, the tax applies to services provided by banks, brokerage firms, both audit and law firms and other financial institutions. It's worth mentioning that credit interest is exempt from ITBMS.

■ **INCOME TAX:**

Natural Persons. The income tax for natural persons in relation to taxable income has increased from \$ 9,500.00 to \$ 11,000.00 per year which represents a reduction of the tax burden to the middle class workers in the Republic of Panama. Individuals who earn taxable wages in this country must pay income tax as follows:

- Up to \$ 11,000 – 0%
- From \$ 11,001 up to \$ 50,000 – 15%.
- From \$ 50,000 – \$ 5,850 for the first \$ 50,000 and 25% over \$ 50,000.

Legal Persons: Legal persons unlike natural persons in the Republic of Panama, pay single annual fee to the treasury according to their income. As per 2010 fiscal reforms, the income tax for legal persons has decreased annually for certain types of activities undertaken by companies and will later be later lowered on businesses that perform other activities. Since 2011, the income tax is 25% for all domestic and foreign companies, except those engaged in banking activities, insurance and reinsurance, telecommunications, generation or distribution of electricity, manufacturing cement, games of chance and casinos. Companies that engage in these activities are currently taxed 27.5% annually. However, as of January 2014, this tax will be reduced to 25% for both domestic and foreign companies. It is important to mention that in the Republic of Panama, legal entities are only taxed or pay taxes in regards to the taxable income, which is the income produced within the country.

■ **DIVIDEND TAX:** The dividend tax is nothing other than income earned by stocks and shares in a Panamanian corporation. This tax is triggered when a company decides to share profits with its partners or shareholders. Basically, any partner or shareholder of a corporation must annually pay 10% tax to the treasury of net income from a Panamanian source, 5% tax on exempt profits and / or exports, and 20% in cases where shares are subscribed in bearer form. It is very important to note that this tax should only be paid on stocks and shares of companies that operate commercially and that should declare income. The shareholders or partners of

companies that are not conducting commercial operations should not pay taxes given that there is no profit to be received.

■ **MUNICIPAL TAX:** Every natural and legal person performing business in the Republic of Panama must inform and therefore register before the municipality where they conduct such activities. Municipal taxes are paid on a monthly basis as opposed to state taxes and the amount thereof will depend on the amounts set by each municipality and according to the activity and gross income received. Persons engaged in liberal professions are exempt from municipal tax.

Labor Regime

The Panamanian labor legislation tries to be equitable between the rights of the employer and the employees without losing sight that the employee is seen as the weakest part of the relationship. It is a principal to labor law that neither domestic nor foreign employees may waive or diminish their rights properly established in the Labor Code of the Republic of Panama, defined as "acquired rights" which are: salary, thirteenth month bonus, seniority premium and vacation. Regarding the following points to be discussed, it is important to mention that there is no distinction between domestic and foreign employee. Without prejudice to the general labor and immigration laws, Panama has a special law in an area called Panama Pacific that has special regulations and is highly beneficial for foreign investment.

■ **EMPLOYMENT CONTRACT:** According to the Labor Code of the Republic of Panama, employment contracts can be for a definite or indefinite period or for a specific project. Contracts for a definite period can only be agreed to for a maximum term of one year. However, it may result in an indefinite contract if the yearly contract ended and the employee continued working in the company.

■ **WORK SHIFTS:** In the Republic of Panama there are 4 different work shifts:

- Day: consists of a maximum of 8 hours between 6:00 am and 6:00 pm with a maximum of 48 hours per week;

- Night, consists of a maximum of 7 hours between 6:00 pm and 6:00 am, with a maximum of 42 hours a week;

- Mixed, consist of 7 and a half hours including day and night shift with a maximum of 45 hours a week. Important to note that a mixed shift with over 3 hours in the nighttime period is considered as a night shift.

- Changing shifts: the labor regime in Panama allows employees to work during different shifts according to the activities and needs of the company.

■ **OVERTIME:** Work in excess of the maximum hours specified above must be paid as overtime. Minimum rates for overtime are:

- A surcharge of 25% for hours worked during the day shift;
- A surcharge of 50% for hours worked during the night shift, for excess hours worked in mixed shift that began during the day, or for work performed on a rest day (i.e. Sunday).
- A surcharge of 75% for excess hours worked in the night shift or a mixed shift that began at night.
- A surcharge of 150% for hours worked on a holiday or national day of mourning, plus an extra day to rest if required. Excess hours worked in a regular shift on a holiday shall be paid at the same rate described above plus a surcharge of 50%.

■ **VACATION:** Employees are entitled to 30 days annual leave. The annual leave accumulates at the rate of one day for every 11 days of work. The employee cannot waive their vacation for pay. However, may accumulate them for two years provided the employee has taken 15 days of the first period. The 30 day period cannot be split into more than two equal periods.

■ **SALARY AND MINIMUM WAGE:** The employer is free to pay the employee either on a monthly, fortnightly, weekly, daily, hourly rate or by project or specific job. The salary can include cash, bonuses, commissions, profit sharing and any other income or benefit that employees receive for their work. Employees must receive no less than 2 payments per month.

As for the minimum wage, this will depend on the business activity undertaken and the geographic area where the company conducts its operations. The current minimum wage is between \$ 432.00 and \$ 490.00 dollars.

■ **TERMINATION OF EMPLOYMENT CONTRACT:** The Labor Code of the Republic of Panama establishes the grounds for terminating the employment relationship between employer and employee. The following are some of the causes: by mutual consent, provided it is in writing and does not involve waiver of acquired rights, by the expiration of the agreed term, the death of the employee, dismissal based on good cause, the resignation of the employee; unilaterally by the employer, with the formalities and limitations set forth in the Labor Code etc. Following the termination of employment, the employee is required to pay certain benefits such as salary to date; proportional thirteenth month bonus; proportional vacation and seniority premium (one week salary per year worked since the beginning of the employment relationship). In cases of unfair dismissal on indefinite contracts, the employee is entitled to compensation equivalent to 3.4 weeks' pay for each year worked in the first ten years.

■ **SOCIAL SECURITY:** Social security in the Republic of Panama is overseen by an autonomous authority which is governed according to its own law and not by the Labor Code. The Social Security Bureau (CSS), authority of social security, aims to guarantee the rights for a secured retirement for old age, sickness, maternity, disability, accidents, widowhood, orphan hood and others to their policy holders.

All domestic and foreign employees, including the self-employed are required to participate in the CSS regime. In the case of foreign workers who provide services within the country, government authorities may not prohibit affiliation. On the other hand, it is the duty of national and foreign companies that operate in Panama and have employees, to sign up to the CSS. Likewise, the employer is required to enroll their employees and deduct from their salary the corresponding fees in order to enjoy the above benefits. As for the fee, the employer must pay 12.25% of the salary of each employee and the employee must pay 9.75% of their salary.

Immigration Regime

The immigration regime aims among other things to regulate the immigration that comes in and goes out for domestics and foreigners, the stay of foreigners in the Republic of Panama and to establish the requirements to acquire Panamanian citizenship by naturalization. Notwithstanding any general immigration rules, Panama has areas that are regulated by special immigration standards, such as Panama Pacifico which we will explain in a separate section.

■ **ENTRY AND EXIT OF FOREIGNERS:** Foreigners who do not have or are processing a residency permit in the Republic of Panama, may apply before the immigration authorities for a multiple entry and exit visa (multiple visas). The same may be granted for a maximum of five years at the request of the interested party and will allow them to enter and leave the country any number of times, while valid. The multiple visas represent a benefit to those foreigners that due to the nature of their occupation must travel regularly. Thus, while making appropriate arrangements for obtaining a residency permit, a foreigner can feel confident that they can continue traveling to the destinations of their choice without any immigration problem in the Republic of Panama.

■ **VISAS OR RESIDENCY PERMITS:** The Republic of Panama has numerous types of visas or residency permits for foreigners with the intention of living here. In 2012, a new immigration subcategory was created which has drawn the interest of many foreigners. This subcategory is the "Permanent Resident Permit for Foreigners of Specific Countries that maintain Friendly, Professional, Economic and Investment relations with the Republic of Panama (Friend Countries)." Nationals of countries like the United States, Spain, Great Britain, Argentina, Canada, among many others, can apply for this residency permit as long as their purpose is the pursuit of economic and professions of any kind. One advantage of this residency permit is its permanent and therefore the work permit (which will be addressed later) is also granted indefinitely. In addition, the Republic of Panama also offers foreigners the following permits:

- *Non Resident:* They are usually permits for short term stays in the country for traders and investors, conducting business, medical treatment, tourists and other.

- *Temporary Residents:* are granted on an annual basis, renewable for up to six years and include residency permit for workers within 10% of a private company, for investment reasons and others.

- *Permanent Residents*: residency permits that after two years, the person is eligible and may request for permanent residency. This permit may be requested by macro-business investors, economic solvency, retirees, dependents of permanent residents and others.

■ **WORK PERMIT**: Foreigners that require working in the Republic of Panama must obtain authorization through a work permit, issued by the Department of Labor and Social Welfare. Work permits are usually granted on an annual basis, subject to the rules for application and/or issuance. It is important to note, that companies may only hire up to 10% of foreign employees based on the total of administrative employees on payroll, and up to 15% for specialized or technical staff.

Special Economic Regime and Colon Free Zone as a Free Trade Zone

The Republic of Panama in recent years has sought out to attract multinational companies by creating special schemes that aim to grant such companies numerous benefits in tax, labor, and immigration, among others. This country has different laws focusing on various areas such as: special economic areas Panama-Pacífico, the special regime for Headquarters of Multinational Companies in the Republic of Panama, Colon Free Zone, and the special regime for Free Trade Zones.

■ **PANAMA PACÍFICO**: In 2004 a special regime for the establishment and operation of a special economic area called Panama-Pacífico was created. It is administered by the Agency of Panama Pacífico, which is an autonomous State entity. Any company that establishes within the Panama Pacífico Special Economic Area enjoys special benefits or incentives.

Panama Pacífico is primarily an area or tax-free zone for companies operating within this territory. This area offers tax incentives in relation to indirect taxes, for example, companies are exempt from paying taxes on imports entered in Panama Pacífico; ITBMS exemption, tax exemption with respect to the fuel or other hydrocarbons and their derivatives; tax exemption for export and re-export of merchandise, products, services, or goods etc.

Furthermore, Panama Pacífico offers legal stability for companies set up there and special immigration incentives. Foreign workers in Panama Pacífico may request special residency permits with 3 to 5 year duration, renewable.

Panama Pacífico is geared towards both national and international companies engaged in the performance of a number of commercial activities, among companies today that are established in this area are; Dell Panama, Panama 3M, Caterpillar, Citibank, Covidien, PPG Industries, VF Corporation (all these belong to Fortune 500) and many others that have discovered the value of locating its operations for Central and Latin America in Panama Pacífico.

■ **HEADQUARTER OF A MULTINATIONAL COMPANY (SEM):** Since 2007, the Panamanian government has been promoting the establishment of headquarters of multinational companies in the country requesting only the obtainment of a License from the Headquarter Multinational Company (SEM) which is indefinite in nature. Multinational companies that establish their headquarters in the Republic of Panama will be exempt from income tax and ITBMS on all services provided to companies or entities not resident in the Republic of Panama. Likewise, there are immigration and employment benefits. As for immigration benefits, the law has created a special category for foreign workers of multinational companies that hold the SEM license. These workers have the advantage of being able to apply for a residency permit for the same duration of the employment contract (a maximum of five years). Also, these workers do not require work permits or affiliation with the Social Security Bureau. In regards to employment benefits in the Republic of Panama, as we have already mentioned, there is a limit of 10% and 15% for foreign workers. This limitation does not apply to companies that hold the SEM license. Important multinational companies as Proctor & Gamble, Maersk, LG Consulting, Western Union, Heineken, Bosch, Nestle, Adidas and many others have decided to locate their headquarters in the Republic of Panama since this country is offering simplicity, legal stability and all the benefits described above.

■ **COLON FREE ZONE:** The Colon Free Zone is the main free trade zone, not only in the Republic of Panama, but also of the Western hemisphere. It is the main commercial center for Latin America and the Caribbean because of its excellent location and connectivity by sea, air and land. The Panamanian government seeks to ensure legal stability of all companies that conduct business in the Colon Free Zone. The institution has been certified under ISO 9001 Normal: 2008 so it offers first class service.

Companies that conduct business within the Free Zone are exempt from paying taxes on imports, exports and manufacturing of goods, re-export revenue, billing and various federal and province taxes. More than 3000 companies operate within the Colon Free Zone which together generated 30.8 billion dollars in 2012.

Industrial Property Regime

The Republic of Panama, through the Department of Commerce and Industries, recognizing at the same time protects industrial property rights which include inventions, utility models, industrial designs, trade secrets, product and service trademarks, indications of provenance, designation of origin and propaganda slogans and signs.

■ **INVENTIONS:** The patent protects new inventions resulting from an inventive step and capable of industrial application. Invention means, every idea practically applicable for solving a specific technical problem. These inventions can be either product or process, they may be apparent (tangible) or not apparent (unobvious use of a product or process or method). The

patent application must be filed by an attorney to the Directorate General of Intellectual Property Registry (DIGERPI) stating that the invention is new and is capable of industrial application. The DIGERPI for such purposes, accepts inventions that have been reported anywhere in the world up to 12 months prior to the filing. The patent will last for 20 years non-renewable.

■ **UTILITY MODEL:** The utility model patent protects all types of devices or mechanisms that enable better or different operation, use or manufacture of the object to which it is incorporated. For such patent to be registered, the utility model must be new and industrially applicable. Utility models that do not provide discernible feature regarding previous inventions and utility models will not be registered. Application must be submitted by an attorney before DIGERPI and the patent will have a non-renewable term of 10 years from the filing of the request.

■ **INDUSTRIAL MODELS AND DESIGNS:** You can register as a model and industrial design, any two or three dimensional forms incorporated in a utilitarian product that gives a special appearance and makes it suitable for use as a type or model for manufacture. All industrial models and designs will be protected if registered or by first disclosure in the Republic of Panama. It must be new and cannot present only minor or secondary changes to previous industrial designs. It may be registered for 10 years which at maturity may be extended for another 5 years.

■ **TRADE AND COMMERCIAL SECRETS:** The Republic of Panama also protects trade and commercial secrets, which are qualified as any industrial or commercial application that as a matter of confidentiality a natural or legal person retains because it represents them with a competitive advantage over others in carrying out economic activities.

■ **TRADEMARKS:** It is understood as a trademark, any sign, word combination thereof or any other means, that by its character is capable of distinguishing a product or service. Unlike patents and utility models, the exclusive right is acquired by registration and not by use. To register a trademark, it must adhere to the International Classification of Niza which is responsible for categorizing products and services.

A trademark registration lasts for 10 years from the date of filing and may be renewed indefinitely for similar periods.

■ **INDICATIONS OF PROVENANCE AND DENOMINATION OF ORIGIN:** The expression or sign used to indicate that a product or service is from a country or group of countries, a region or a specific place is considered an indication of provenance. The geographical name of a country, region or locality which serves to designate a product originating therein, the quality and characteristics are due exclusively or essentially to the geographical environment, the natural and/or human factors is considered a denomination of origin.

Thus, by written request to the DIGERPI, any industry, merchant or service provider is entitled to use the respective geographic name as an indication of origin of their products or services.

The denominations from the Republic of Panama are excluded from this since prior authorization from the Panamanian Executive Branch is required.

■ **PROPAGANDA SLOGANS OR SIGNS:** Any propaganda, advertising sign, legend, phrase, combination of words, design, recording or similar, as long as original, distinctive and that it is used to attract the attention of consumers or users, about a product, commodity, service or establishment is considered a propaganda slogan or sign.

Trademarks and trade names may be part of a propaganda slogan or sign provided they are pre-registered for the same owner and the same can be used on posters, murals and any other advertising medium. It is also important to note that the propaganda slogan or sign is protected in whole and not in parts.

Real Estate Regime

It is understood by real estate property, any object, building or land, subject to appropriation and transfer, which cannot be moved from one place to another. For the purposes of this business guide, only consider the transfer of real estate, such as buildings attached to the land and/or land in its natural state and mortgages attached to them.

■ **BUYING REAL ESTATE PROPERTY:** The purchase of real estate property either through a sale/purchase agreement, assignment of rights and others, is closely linked to the Public Registry of the Republic of Panama, which is accessible online and inquiries about properties and Panamanian and foreign registered corporations can be made. This institution is responsible for the registration of all transfers of real properties (property identified with a unique number) and levies and/or limitations they may have.

The Republic of Panama, in addition to optimum registration of real estate, also offers the publishing of them thus facilitating proper investigation of any property. Therefore, before purchasing a property in the Republic of Panama, it is recommended to perform a due diligence and research to ensure that the potential buyer knows of any liens, limitations, levies, embargoes and pending litigations which it may have or ownership limitation or restriction of the domain. Another important consideration before purchasing a property is in relation to the transfer tax. In the Republic of Panama, the tax on the sale of real estate property is as follows:

- 2% transfer tax must be paid to the treasury.
- 3% of the total sales value or the assessed value of the property must be paid in advance.

With regard to the 3% advance, it replaces the 10% capital gains tax based on the assessed value of the property. However, if the 3% advance exceeds the amount which would have been paid with the 10% capital gains tax, the return of the difference between the two percentages may be requested to the ANIP.

■ **MORTGAGES:** Mortgages directly and immediately hold the asset on which imposed, for the fulfillment of an obligation for which the security is constituted, whomever the possessor may be. Therefore, it is an accessory contract agreement or constituted in order to secure payment of an obligation. In order for the lien to take effect on a third party, the agreement or contract that contains the mortgage must be registered before the Public Registry of the Republic of Panama. Usually mortgages are of medium to long term given that they last for between 5 to 30 years. Additionally, in the Republic of Panama the right to receive profits from real estate property is also part of the mortgage agreement or contract.

Administration of Justice Regime

The administration of justice in the Republic of Panama is public, free, speedy and uninterrupted. The Judicial Branch is the institution responsible for the resolution of conflicts within the country. However, there are other mechanisms which may conclude with the same purpose such as mediation, conciliation and arbitration which are well accepted in the country, legal certainty as well as efficient and timely.

■ **ADMINISTRATION OF JUSTICE THE JUDICIAL WAY:** The Judicial Branch is constituted, in hierarchical order, by the Supreme Court of Justice, The Judicial District Courts, Circuit or Sectional Courts and Municipal Courts. The law is responsible for attributing to these chambers the corresponding cumulative exclusive jurisdiction or cases.

■ **ARBITRATION:** The Republic of Panama recognizes the use of arbitration for the administration of justice. It is considered an institution of conflict resolution by which any person with legal capacity to be bound submits disputes which have arisen or which may arise with arbitration through the subscription of an Arbitration Clause.

■ **INTERNATIONAL ARBITRATION:** International arbitration is widely known and regulated in Panama by Law Decree No. 5 of 1999 which regulates international commercial arbitration and whose main principles are:

- The resolutions from arbitration abroad will be recognized and enforced in the Republic of Panama in accordance with the Treaties and Conventions which this country is part of or failing at, by the rules contained in Law Decree No. 5 of 1999.
- The Supreme Court of the Republic of Panama, through its Fourth Chamber, is in charge of recognizing and enforcing judgments or awards from abroad, upon request of an interested party.
- For international commercial arbitration, internationalization is determined according to the ability of the parties, the law applicable to the arbitration agreement and / or the law used by

arbitrators to resolve the conflict. It will also be taken into account trade usages and rules of international private contracting.

Panama seeks to become, in the short-term, the most important international arbitration center of the Hemisphere being supported by competitive advantages and its tradition as a service country. Panama has great potential for international arbitration, as it has the proper infrastructure, international litigation lawyers and above all, a great tradition of service.

The Center for Conciliation and Arbitration of Panama founded in 1994 is an institution sponsored by the Chamber of Commerce in this country and other business associations, whose primary objective is to promote the use of arbitration, mediation and conciliation, as forms of resolution of disputes in the national and international business community, through its various services. The Center has a Board of Directors, which is its governing body, and administratively has two Secretaries, an Administrative Coordinator, a Legal Assistant and administrative staff that allow them to offer management services for arbitration, conciliation and mediation processes as an international center for hearings, consulting and training services.

■ **CONCILIATION:** Conciliation, duly recognized by the Republic of Panama, is a method of peaceful settlement of disputes, through which the parties manage conflict resolution through the intervention of an impartial facilitator, duly authorized to exercise that function. With regard to the competence of the conciliation process, only issues subject to trade, withdrawal and negotiation can be addressed. In areas of law such as labor, the parties must first try to resolve their disputes through conciliation, before a judge may intervene in the matter. Thus, the decisions taken and subscribed by the conciliation process cannot be modified and the same are binding.

■ **MEDIATION:** Mediation is an alternative method of conflict resolution intended to seek out and facilitate communication in order to achieve an agreement between the parties through the intervention of a qualified mediator. Like the conciliation process, only issues subject to trade, withdrawal and negotiation can be addressed. It should be noted that mediation can occur in a judicial or extra-judicial proceeding.

Cinematographic Regime

The Republic of Panama is currently developing a cinematographic law in the interest of attracting companies involved in the film industry. This law will grant tax incentives to companies that perform such economic activity within Panamanian territory. The undersigned, Irene Fernández de Galindo, authorized public translator with License No. 460 issued on August 25, 2004, certifies that the above is a correct translation of its original in Spanish. October 18, 2013