ARIFA
ARIAS, FABREGA & FABREGA

Plaza 2000, 16th Flo
50th Street
PO Box 0816-01098
Panama, Republic of Panama
Phone: +507 205 7000
Fax: +507 205 7001

ARIFA LEGAL FLASH

NEW FREE TRADE ZONES REGIME IN PANAMA

The following is an executive summary of the main provisions of the new Law 32 of April 5, 2011. If you have comments, you can send them to any member of our commercial transactions and contracts practice group. It will be a pleasure to answer any questions you have regarding the reform and to assist in assessing the impacts it has on your business and operations.

ARIFA commercial transactions and contracts practice area

María C. Arroyo
Partner
Head of Practice
mcarroyo@arifa.com
+507 205 7021

Eduardo de Alba
Partner
edealba@arifa.com
+507 205 7024

Juan F. Corro
Julio J. Fábrega III
Rosa Restrepo
Carin Stelp

Law 32 of April 5, 2011 establishes a special, integrated and simplified regime for the establishment and operation of free trade zones in Panama.

Panama, May 2011. The new legislation seeks to promote trade and a wide range of activities including the production of goods and services, high technology, scientific research, higher education, logistics and environmental services, among other activities through the development of free trade zones in Panama.

Law 32 supersedes Law 25 of November 25, 1992, which covers 89 companies established in the 14 export processing zones.

Definition of a Free Trade Zone

- Free enterprise zones, within specifically delimited areas, which include all of the infrastructure, installations, buildings, and service and support systems, as well as the operational organization and administrative management necessary to establish, within these zones, businesses from all over the world whose activities include the production of goods, services, advanced technology, scientific research, higher education, logistics, and environmental and health services, as well as other general services. These zones may be established in any part of the country.
- Free trade zones may be private, state-owned, or a combination of both.
- Companies may participate in a free trade zone as a promoter, operator or user.

Objective of the Free Trade Zones

- To provide optimal conditions for operational efficiency and comparative advantages in order to guarantee established companies high levels of competitiveness.

Activities

- Develop and construct buildings for offices, factories, storage, services, and complementary activities, and any infrastructure necessary for the development of the free trade zones, which buildings may be used, or sold or rented to third parties established in the free trade zones.
- Sell or lease plots of land to natural or legal persons, national or international, that establish operations within the free trade zones to develop one of the activities authorized by the law.
- Construct, promote and develop technical training centers, medical assistance centers, sports facilities and recreational facilities, as well as establish public and personal services to benefit the users and workers in the free trade zones, including for the transportation of persons and cargo.
- Install and operate systems for the production and supply of gas, water, sewage, electricity, and local and international telecommunications and wireless connectivity, water treatment, garbage and industrial waste processing and security, as well as any other services required for the operation of the free trade zones, with the coordination of the respective public entities.
- Develop housing, hotels, hospitals, international educational centers and lodging facilities for executive and technical personnel working in the free trade zones and their families.
- Construct and/or operate directly or subcontract the operation of airports, ports, docks, dry docks, loading and unloading areas, roads, and train tracks and stations, in compliance with applicable regulations and in coordination with the governmental institutions with jurisdiction over that area.

Requirements

- Free trade zones must encompass a minimum area of 2 hectares, and require an initial investment of US$250,000.00 Interested persons must obtain a License granted by the National Free Trade Zones Commission. In order to obtain such a license, applicants must commit to the following:
  - Begin investing in the proposed free trade zone within a year after registration with the Official Free Trade Zones Registry
  - Contract Panamanian workers, with the exception of foreign experts, technicians and persons in positions of trust, as necessary.
  - Develop professional training programs for Panamanian workers.

Tax benefits

- Free trade zones are exempt from all direct and indirect taxes, fees, contributions and charges, including the Operations Permit tax. Taxes will be applied only on the following:
  - Income tax and VAT on the leasing and subleasing of units within the free trade zones, except for those units leased or subleased by the free trade zone promoter.
  - Dividend tax of 5%, regardless of the source of the funds, and a complementary tax of 2% in cases where there is no distribution of income.
  - An annual tax of 1% of the business's capital, with a minimum payment of $100.00 and a maximum payment of US$50,000.00.
  - A selective consumption tax on certain goods and services.
  - A Special Interest Compensation Fund, except in the case of loans guaranteed with bank deposits.
  - Contributions arising out of an employment relationship and those established by the social security legislation.
- Income tax is exempt on services and products provided outside Panama or to other companies within the free trade zone, but income tax is applied on any services or products provided within Panama.
- With the exception of the employment and social security contributions, the above described taxes do not become applicable until January 1, 2016.
- Companies operating in a free trade zone may not take advantage of the Agricultural Exports Promotion Certificate or any other tax benefits established by law.

Special Immigration Regime

- Foreigners who have invested at least US$250,000.00 in a free trade zone, or in one of the companies established within the free trade zone, are entitled to apply for a Permanent Resident Permit in a special category for Free Trade Zone Investors. These investors may then apply for permanent residency after a period of two years.
- Persons hired as personnel in a position of trust, executives, technicians or experts by authorized free trade zone promoters or companies established within the free trade zones are entitled to apply for a Temporary Residency Permit, which is valid for the term of their employment contract. This permit is subject to the rules established in the Labor Code.
- The free trade zone regime also establishes Special Temporary Permits for teachers, students and researchers in Higher Education and Scientific Research Centers.
- Potential investors may apply for a Short Term Visa that is valid for up to nine months in order to come to Panama and investigate the possibilities of establishing a free trade zone or carrying out business in free trade zones.
- Dependents of applicants in these categories may also request permits.

Special Labor Regime

- Companies established in free trade zones also benefit from a more flexible labor law regime which allows companies to negotiate special vacation and resting days with employees based on seasonal industry demands.

Customs

- Operators should execute a Special Customs Control and Enforcement Service Contract with the Customs Service.

Call Centers

- This free trade zone law and its benefits are also applicable to call centers that receive a concession from the National Public Services Authority for the provision of call center services outside of Panama. Under this regime, international calls are exempt from direct and indirect taxes, fees, contributions and charges, within the exception of the taxes established in this law and the fee charged by the Public Services Authority.