

Doing Business Guide

Panama

1st Edition

Grupo Camacho

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Morison International

About This Booklet

This booklet has been produced by Grupo Camacho for the benefit of its clients and associate offices worldwide who are interested in doing business in Panama.

Its main purpose is to provide a broad overview of the various things that should be considered by organisations considering setting up business in Panama.

The information provided cannot be exhaustive and – as underlying legislation and regulations are subject to frequent changes – we recommend anyone considering doing business in Panama or looking to the area as an opportunity for expansion should seek professional advice before making any business or investment decision.

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While every effort has been made to ensure the accuracy of the information contained in this booklet, no responsibility is accepted for its accuracy or completeness.

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Introduction

Panama is one of the most vital business and commercial centres in Central America, largely influenced by the strategic importance of the Panama Canal and the low shipping and import rates. Known as the 'Hub of the Americas' because so many flight connections converge at this point, Panama is also an ideal location for business meetings.

Geography

Located in the lower part of Central America, Panama offers access to the Pacific and Atlantic Oceans and is bordered by Colombia and Costa Rica. The terrain consists of mountains towards the centre of the country, and large plains all along its coastline (approx. 2,490 km).

Panama enjoys a tropical maritime climate, with just two seasons:

- Dry season (December to April) – hot and sunny days
- Rainy season (May to November) – seasonal rains throughout the season.

Political structure

Panama is a democratic republic with authority divided into three branches:

- Executive: the president, and a cabinet appointed by the president. Both serve 5-year terms
- Legislative: a unicameral Legislative Assembly with 71 seats, elected by direct vote at the same election as the president, to serve 5-year terms
- Judicial: one Supreme Court with nine Judges serving 10-year terms, five superior courts and three appeal courts.

Military

The Panamanian military was abolished by constitutional amendment in 1994. The government has a security arrangement with the USA via the Neutrality Treaty of the Panama Canal; thus, the likelihood of resuming an active military force is very low.

Legal structure

Panama's legal structure is based on the civil law system, characterised by judicial review of legislative acts in the Supreme Court of Justice. The Supreme Court is divided into 4 chambers:

- 1st Chamber: Civil Chamber – has jurisdiction over all civil suits of general jurisdiction
- 2nd Chamber: Penal Chamber – has jurisdiction over all criminal appeals
- 3rd Chamber: Contentious-Administrative Chamber – has appellate jurisdiction over all matters related to family law and estates

- 4th Chamber: General Business Chamber – constituted by the presidents of the other three chambers and the General Secretary of the Supreme Court, this chamber has administrative, regulatory, disciplinary and jurisdictional functions. It attends to various administrative and judicial matters.

Infrastructure

Panama has five International Airports, two of which are located near the capital. The main airport, Tocumen International Airport, is one of the busiest airports in Central America, moving some 10 million passengers each year.

Two important infrastructure projects are currently underway:

- Upgrade of the Panama Canal, which is being widened and improved
- Building of a subway line to improve public transportation in the capital.

Panama also has 12,000 km of roadway, of which a little over one-third is paved. It has three main marine ports, Balboa, Colón and Cristóbal, where one free zone is located (Colón Free Zone).

The Economy

Panama's economy is among the faster-growing economies of Central America, with a huge services sector (including management of the Panama Canal, insurance and tourism) that contributes about 80% to the GDP. Panama also has a highly developed industry sector that includes manufacturing of textiles, cement and alcoholic beverages.

Recent growth

Panama has experienced increased economic growth in recent years, achieving 10.7% growth in GDP in 2012 as a result of heavy investment in the country's infrastructure. This accelerated growth is expected to continue throughout the coming years, given that significant investment has encouraged business development, much of it foreign.

The Panama Canal

The Panama Canal accounts for a large proportion of Panama's economy: it offers the only route connecting the Pacific and Atlantic oceans, enabling naval vessels to transport goods without the need to disembark and re-embark.

The Canal's real potential is expected to be realised with the completion of the expansion project that started in 2007. The Canal's current approximate revenue is US\$ 1 billion/year, which is expected to rise to US\$ 4 billion once the expansion is complete (around 2015).

The cost of the whole expansion project is calculated to reach US\$ 5.3 billion; it is anticipated that the Canal will double its capacity, making it the most convenient, efficient and economical trade route connecting the markets of Europe, Asia and Australia.

Off-shore investment

Among Panama's many advantages as an investment centre is the relative simplicity and favourable conditions for establishing an offshore corporation. Panama has more than 500,000 such corporations, making it the second most popular country to incorporate (after Hong Kong).

Fiscal advantages

Panama imposes no reporting requirements for non-resident offshore corporations:

- No capital gains tax on offshore investment
- No interest income tax on offshore bank accounts
- No offshore income tax.

Stable economy

Panama's economic stability, due to the dollarisation of its currency, makes it an ideal country for investment. In addition, there are minimal restrictions on fund transactions, and Panama deals in all the major currencies.

Favourable incorporation laws

Panama offers some of the most favourable and flexible incorporation legislation in the world, such as the availability of private interest foundations.

Establishing a corporation is simple, has few prerequisites, and offers a high level of privacy around sensitive information. Furthermore, the strict banking privacy laws protect personal banking information; for example, revealing banking information to third parties is punishable by prison in Panamanian law.

It is not necessary for the interested parties – people or entities – to be present in Panama, and the law does not impose currency exchange controls because of the dollarised economy. Nor does Panama impose restrictions on monetary remittances abroad (including dividends, interests and royalties), so there are no restrictions on funds flowing in or out of the country in any currency.

Trading

Given the ease of access to both oceanic masses via the Panama Canal, the country is considerably advanced in trading.

Panama facilitates access to export transportation and handling, especially in certain trading developed zones such as the Colón Free Trade Zone, where suppliers can be found who are able to negotiate with third parties and ship merchandise in a very short time and at very short notice. This simplifies business transactions as it is possible to deal with just one person with an extensive portfolio, enabling the client to explore and expand their market.

There are also agencies working with the government to encourage exportation from Panama, which help to maintain the free zones and keep marine ports busy all year.

Dollarisation

Panama's official currency is the Balboa (PAB); however, for more than a hundred years the circulating currency has been the US\$ (exchange rate 1:1 with the Balboa). Panama still mints Balboa coins, which are the same size and composition of American currency, their value is as follows:

Panamanian Balboa	US Dollar Equivalent
1 centésimo	Cent
5 centésimos	Nickel
1/10 Balboa	Dime
1/4 Balboa	Quarter
1/2 Balboa	Half-dollar
1 Balboa	1 Dollar
2 Balboas	2 Dollar

The dollarisation of the currency makes Panama's economy one of the most stable in Latin America, keeping inflation extremely low (under 2%) over the last four decades.

The utilisation of American currency was a crucial factor in establishing Panama as an important international banking centre. Some 30 years ago, the financial system consisted largely of banking. Panamanian businesses relied relatively little on public stock or bond issues. No formal stock exchange existed; supervised, independent brokers handled the limited trading in regulated financial certificates, stocks, and bonds. In addition, some insurance companies, savings and loan associations, and unregulated consumer finance companies, were formed. The country's social security fund invested in government bonds and various development projects.

Lately, the country has encountered the only problem they have had with dollarisation in decades: as the investment in infrastructure and other sectors has increased, inflation has grown – and the country has few means to avoid it, being unable to produce more currency.



Legal Structures of Business Organisations

There are several types of business organisations in Panama (see Figure 1).

Figure 1. Business organisations in Panama.



Corporations

In Panama, anyone can establish a corporation; two or more people is typical, but an individual can also do it alone. All Panamanian companies are required to have at least three directors – a president, a secretary and a treasurer. These directors can be either persons or entities that will represent the company. Because this information is submitted to the public registry, the directors' names will be made public.

Legal requirements for incorporation

Name

The corporation must have a name so that it can be registered. It is advisable to give more than one name at the time of inscription, in case the first choice of name is not available.

Main objectives

A statement of the main objectives of the corporation is required; however, the deed entitles the corporation to perform any legal business aside from the specified principal objectives.

Capital

A disclosure of information regarding the amount of authorised capital is required; this information must include the number of shares. There is no minimum or maximum capital limit in order to operate. Paid-in capital is not required, nor is a time frame in which the authorised capital must be paid.

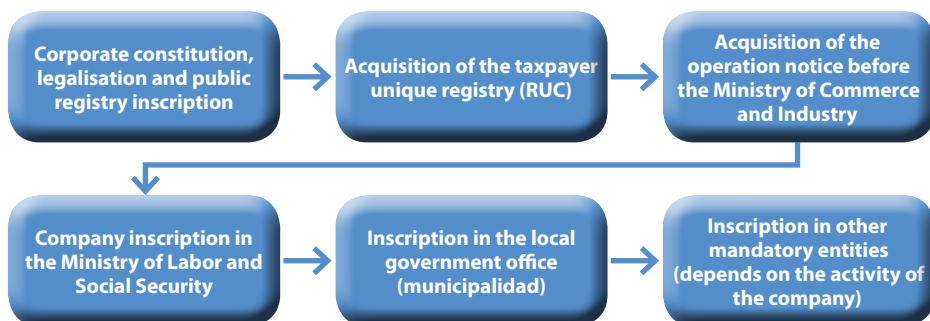
Subscriber or local agent

The corporation needs a local subscriber in order to create the corporation – usually an attorney at law, because the subscriber must present and sign the articles of incorporation, and may also need to address all legal issues regarding the corporation if the board of directors is not situated in Panama.

Steps for inscription of the corporation

The steps involved in creating and incorporating a company are summarised in Figure 2.

Figure 2. Process for incorporation of a company in Panama.



How long does it take?

A Panama corporation can be established in 5 business days. There are also 'shelf corporations', which are already incorporated in the registry for immediate use if business needs to commence urgently.

Share certificates

In Panama, as in other Central American countries, share certificates can be issued to the bearer, allowing shareholders to retain privacy by preventing their names being published as shareholders. However, if certificates can also be issued in the name(s) of individual shareholders.

It is important to recall the fact that directors do not need to be shareholders of the corporation they are directing.

Types of corporation

Sociedad anónima (SA)

The SA is the most common form of business in Panama. In order to register the corporation in the Panamanian public registry, the corporation must have at least two shareholders.

The first step is to have a lawyer prepare the articles of incorporation for registration in the public registry; this establishes who will be the shareholders and directors. If any directors

are switched, the public registry must be notified. In the case of a merger or dissolution, there is no need to update the information held, because the merger company has already presented its own articles of incorporation.

The corporation must have a resident registered agent, who must be of Panamanian nationality and is usually a lawyer, to facilitate all processes that are needed within the corporation.

Foreign corporation

All corporations outside Panama can do business in Panama with this type of corporation. To register the corporation before the public registry, the articles of incorporation must be translated into Spanish and must be notarised, along with:

- A copy of the last financial statements
- Notification of the transfer of capital from the main operation in the country of origin to the operation in Panama
- Written authorisation from the board of directors
- A certificate from the Panamanian consul in the country of origin, confirming that the company work complying with the local jurisdiction must be submitted to the public registry.

Partnerships

General partnership

This is the simplest form of business organisation, in which several partners join to form a business. The liability of partners is unlimited, meaning that each partner is responsible for mistakes made within the limits of the partnership.

Civil partnership

Known in Spanish as *sociedad civil*, this is another kind of partnership in Panama; as with a general partnership, the liability of partners is unlimited. The form of partnership is generally preferred by professionals who can operate independently but tend to benefit from partnership working – such as engineers, accountants, architects and lawyers.

Limited partnership

Known in other countries as a limited liability corporation (LLC, or SRL – *sociedad de responsabilidad limitada*), this is the second most popular option of business organisation. A limited partnership can be constituted by up to 20 associates, which will be registered in the public registry, as well as their contribution to the partnership's total capital; this contribution will be the limit of each partner's civil liability. The partnership's capital must be a minimum of US\$ 2,000 and up to US\$ 500,000. If desired, an administrator can be designated among the partners.

Labour and Personnel

Labour law

All employer–employee relations are governed by the Labour Code (1982) and its latest reform Law No. 51 (2005) which reforms the Organic Social Security Law. The Code covers:

- Written contracts
- Minimum payment
- Working days and working hours
- Paid vacations
- Employee dismissal procedure
- Social organisations
- Strike.

In addition to these regulations, Law No. 51 establishes the employer's obligation to register employees with the social security system. The Social Security Law includes all the obligations that the employer acquires by signing the employee into the social security system.

All employer–employee disputes are settled by the Conciliation and Decision Boards, the Labour Court or the Labour Superior Court. All work-related courts depend on the Supreme Court.

Social security

Social security covers all Panamanian workers for illness, injury, maternity leave and retirement. In order to cover for all of these expenses, employees and employers must contribute with a percentage of their salary (9% for employees, 12% for employers).

In addition, special risk insurance can be deducted if appropriate to the nature of the work, at a rate of 0.98% to 7% depending on the risk involved. This is deducted from both employees and employers.

Workers insurance

The employer is responsible for all professional risks taken by their employees. Any physical injury occurring in the workplace is deemed to be a work accident, and any illness resulting from the type of work performed is classed as professional sickness.

Omission or recklessness on the part of an employee does not absolve the employer of responsibility, unless the recklessness is caused by clear disobedience to the instructions provided by the employer or work regulations.

If the professional risk is caused by the employer, or third parties, the issue must be settled in court.

Taxation

Taxation in Panama is governed by the Panamanian fiscal code.

Corporation tax

Under Panamanian law, everyone with an income must be taxed accordingly (see Table 1); however, there are different taxation rates for Panamanian residents and foreigners. A resident is someone who has spent ≥ 183 days in Panama; a non-resident is any person who has not. The taxable income rate for residents is in the range of 0–25% with graduated rates, with the maximum rate being applied to income over PAB 50,000.

Aggregate and annual revenue from business activities that are either conducted in Panama or come from assets in the country (when any revenue is generated in Panama) are subject to income tax.

For extended business travellers, the most frequent taxes are employment and income gained in Panama.

Table 1. Corporate income tax brackets.

Company	Tax rate
Regular	25%
Special*	27.5%
The state is owner of $\geq 40\%$ of share stock	30%

*Special companies include banks, insurance, gaming, gambling, telecommunications, mining and electric power companies. This applies for 2013 only; after that, they all will pay 25%.

Alternative minimum income tax

There is an alternative tax that may be applied to corporations, instead of the regular income tax; the rate is still the same (25%), but it is applied to taxable net income after deduction of costs and expenses, or after deduction of 95.33%, from gross taxable income – whichever is the highest.

If the effective rate exceeds 25% using the second option, or if the company incurs loss, then application of the regular rate can be requested from the tax administration. Companies invoicing less than US\$ 1.5 million in gross taxable income are not subject to the alternative rate.

Prepaid dividend tax

If no dividends are declared in any given fiscal year, all Panamanian companies must pay 4% of dividends declared afterwards.

Franchise tax

Franchises (domestic or foreign) registered in Panama's public registry must pay an annual fee of US\$ 300. If this is not paid in time, companies must pay a US\$ 50 penalty for the first year and US\$ 300 after the second year.

Licence tax

Because every company in Panama needs a licence to operate, a tax of 2% of the company's net worth is paid annually. If the company has headquarters, or affiliated companies, then any amount owed to them is included in the calculation. The maximum any company can pay for this tax is US\$ 60,000.

Value added tax (ITBMS)

All services and products sold pay VAT (ITBMS – *impuesto a la transferencia de bienes muebles y servicios*, or 'goods, personal property and services transfer tax'); see Table 2.

Table 2. Rates for value added tax (ITBMS).

Transfer	ITBMS
Personal property, commodities, professional services	7%
Import and sale of alcoholic beverages	10%
Import and sale of tobacco products	15%

Transfer pricing

Panama recently adopted a transfer pricing regime, which indicates that all operations conducted by taxpayers with any related parties outside of Panama must be valued under the arm's-length principle – applying to extraordinary income, costs, necessary means and expenses needed to do business and perform operations.

Banking and Finance

Overview

The banking sector is one of the most developed segments of the Panamanian economy.

Panama is among the most secure financial centres in the world: confidentiality is protected by the national constitution, which ensures that the privacy of banking and corporate documents continues to be stringently protected by law.

Banking system

With no need for a bank to issue and protect paper currency, Panama has no central bank. The National Bank of Panama (*Banco Nacional de Panamá* – BNP), a state-owned commercial bank, is responsible for non-monetary aspects of central banking. The BNP is assisted by the National Banking Commission, which was created along with the country's International Financial Centre, and was charged with licensing and supervising banks.

Panama's banking system is constituted mostly by private banking, with international capital. Since the 1980s it has become one of the most important financial centres of the region, due to the minimal legal requirements for establishing a company, along with dollarisation and general economic stability.

The country is home to more than 60 banks, of which some 40 operate only locally and 20 have an international licence.

Private banking

Banking in Panama is mostly private: because the country is dollarised, it doesn't need a central bank to regulate currency. This factor, together with its business advantages, has encouraged the rapid expansion of private banking in Panama. Only two of Panama's 60+ banking entities are national public banks; the rest are constituted by private owners. Investors are also attracted to the private bank sector by the strict regulations protecting banking information.

Financing

As there are plenty of private banks in Panama, there is no shortage of entities willing to finance foreign projects; however, most prefer to finance real estate – whether investing in land, construction or purchase of buildings. This assists most foreign investors in Panama, who are seeking a physical location for their business.

Since Panama uses the US\$ as official currency, there are no issues concerning the finance of any project; it is simply a matter of choosing the best deal.

Statutory and Reporting Requirements

Legal requirements

In order to have operations in Panama, the company must be registered with the General Income Administration (DGI; *Dirección General de Ingresos*).

Unique Record of Taxpayers (RUC)

The DGI gives all entities that undertake in economic activities a number known as RUC – *Registro Único de Contribuyentes* (Unique Record of Taxpayers); this number identifies all taxpayers as individuals before the DGI – whether a person, a partnership or a corporation. In the case of local civilians, it corresponds to their Panamanian ID; for foreigners, the number is assigned by the DGI but has a different format than those assigned to corporate entities.

Tax Identification Number (NIT)

Additional to the RUC, the NIT – *número de identificación tributaria* (tax identification number) – can be requested from the DGI. This is required for all online tax processes on the DGI website (e.g. tax declarations, statements), enabling corporations to be managed remotely.

Fiscal printer

In 2011 the DGI established by law the obligation of all business entities to have authorised equipment for printing all documents that can be catalogued as tax receipts, especially invoices, in order to maintain strict control over business income.

The following business entities can request exemption from this rule, given the relatively high investment required to acquire, run or maintain printing equipment:

- Small businesses (those generating up to PAB 36,000)
- Businesses located in areas geographically defined as ‘difficult to access’
- Businesses located where there is no electric power resource available.

Accounting records

Any operation in Panama must keep a general journal, general ledger, meeting minutes book and stock register.

Accounting records must be kept inside Panama for local operations; for offshore corporations they may be held in any country. Shareholders’ and directors’ meetings can also be held abroad.

Since 2005, Panama has officially adopted IFRS as its official accounting regulations. As a result, all companies in Panama, with the exception of banks, are required to follow IFRS in the preparation of their financial statements.

Audits

By law, all corporations must have their annual accounting records audited. However, corporations that can submit an abbreviated balance sheet may be exempt from this, provided they comply with two of the following requirements:

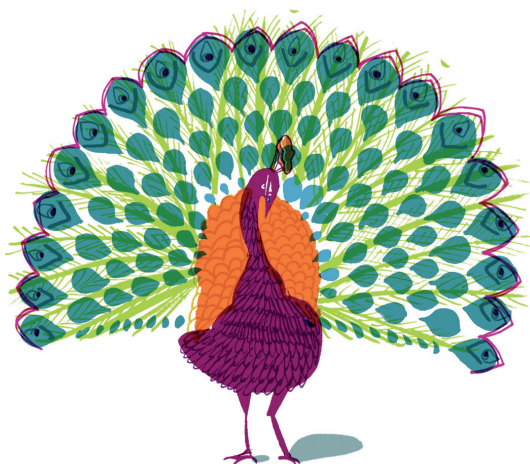
- The total value of assets must not exceed US€ 2.85 million
- The net amount of the corporation's annual turnover must not exceed US€ 5.7 million
- The average number of employees during the annual period must not surpass 50.

Corporations lose their eligibility for reporting an abbreviated balance sheet if they fail to comply with two of these requirements for two consecutive years.

Certain types of corporation, due to the nature of their activities, cannot submit an abbreviated balance sheet – for example:

- Insurance companies
- Companies involved in financial intermediation
- Companies that give credit to foreign entities
- Energy production companies
- Retirement fund managing companies.

An accountant can advise whether the company falls into any of these categories.



Incentives for Investments and Grants

Free zones

Created in 2011, free zones are specifically delimited zones, for the establishment of enterprises, from anywhere in the world. Preferred activities for free zones are production of goods and services, high technology, scientific research, logistics, healthcare services and similar activities.

Free zones also offer fiscal incentives to the companies based there – such as tax and custom duty exemptions for raw material, consumables, spare parts, and similar items required for operation. Lease and sublease are exempt from income tax; and in the areas of education, research and technology there is complete exemption of income tax for the company's foreign operations.

Colón Free Zone

The Colón Free Zone is the largest free trade zone in the Americas and the second worldwide, after Hong Kong; it is much more accessible for entrepreneurs located in the Western hemisphere.

Created in 1948, its location – at the Atlantic entrance of the Panama Canal – is key to its success, being at the almost mandatory pathway between the Pacific and Atlantic Oceans, where more than 12,000 vessels transit. The Colón Free Zone contributes significantly to the Panamanian economy, generating over US\$ 5 billion annually through imports and exports.

Special tax rates

Special tax rates are applied to all business working in the Colón Free Zone, benefiting all businesses that bring commerce to Panama.

The prepaid dividend tax rate is 2% of all dividends declared, instead of the usual 4%. The licence tax rate is 1% of the company's annual net worth, and limited to US\$ 50,000 instead of the usual maximum of US\$ 60,000.

Several of these special tax rates include tax exemptions, such as:

- 0% taxation on profit from re-exportations
- 0% duties and quotas on importation and exportation
- 0% taxation on billings.

Panama Pacífico Special Economic Area

This is a free zone assigned for production of goods, services and technology, such as call centres, offshore services and technology manufacturing processes. Located where the US Air Force base was previously located (before the USA gave control of the Canal to Panama),

it stands just a few miles from the Canal. Some of the benefits of establishing a business in this zone are outlined below.

Fiscal benefits

Tax exemption regarding:

- Merchandise, product, equipment and general goods entering the free zone
- ITBMS
- Fuel storage or movement
- Registration tax
- Stamp tax
- Real estate tax
- Real estate transfer tax
- Export and re-export tax for goods or services.

Labour benefits

The Panama Pacífico also has labour incentives such as:

- Fixed rate for employee overtime and holidays (25% and 50%, respectively)
- Possibility of exceeding the amount of foreign labourers established by the labour code (ratio 10:1)
- Training centre for college-level education
- Justified cause for dismissal due to losses or market fluctuations
- Special visas for investors and foreign labour (including immediate relatives).

Agencies providing assistance to entrepreneurs

Proinvex

Proinvex may be the largest agency providing assistance to entrepreneurs; it is ascribed to the Panamanian Ministry of Commerce and Industries (MICI) and the only one working with the Panamanian government in the task. It specialises in promoting investment in, and exports to/from, Panama.

The agency has a consulting advisory board which is in charge of facilitating access to key contacts and strengthening the capacity of the agency with the latest, most updated practices in the business. Overall, on behalf of its clients, it identifies any factors within the current business climate that may affect the exports or investment sector.

PanAmCham

PanAmCham is the American Chamber of Commerce and Industry of Panama; it is the leading advocate for increased trade and investment between the USA and Panama. It specialises in establishing business contacts, providing insight into the Panamanian business market, and engaging the two governments on matters critical to business. Sole membership of PanAmCham offers the additional advantages such as business advice from specialists and access to networking events.

Many companies are involved in assisting entrepreneurs with setting up a business in Panama. As with many services in Panama, there is a wide range of options from which to choose the most appropriate help.

The Next Step

Contact Carlos Camacho to discuss your needs.

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