

## MEMORANDUM

Panama city, October 9, 2019.

Ref.: Panama – Memorandum on how to do business at Colon Free Zone.

### INTRODUCTION.

In order to provide you with an overview of how to do business at The Colon Free Zone (first free trade zone in The Western Hemisphere, second worldwide), we consider necessary discussing the following points:

- Type of corporations which may conduct business in the Colon Free Zone, and
- Modalities to operate inside the Colon Free Zone.
  
- Type of corporations operating in the Colon Free Zone.

Law 32 of February 26, 1927 regulates Corporations organized under the laws of the Republic of Panama. This Law regulates the subject of corporations with nominative or bearer shares, as well as the requirements to be met by those foreign corporations intending to have offices, or conduct business inside of the Republic of Panama.

Keeping in mind the above, legal persons desiring to conduct business in or from the Colon Free Zone, may be either national or foreign.

In case of **foreign corporations**, the law requires that they be enables to conduct business in the Republic of Panama, that is to say, that they are registered in the Public Registry.

The Panamanian legislation regarding **corporations** establishes the following requirements for their incorporation, their faculties and their capitalization, among other issues, such as we shall set forth herein below:

1. **Denomination or corporate name:** Panamanian laws do not allow two corporations to have equal or similar names.

2. **Corporate Purpose:** The law does not limit the exercise of activities by the corporation, to those appearing expressly in the partnership agreement, and therefore the corporation may engage in any lawful activity, regardless of whether or not it is contemplated in the partnership agreement.
3. **Corporate Capital:** The law imposes no minimum or maximum limits to the corporate capital.
4. **Directors and Officers:** The law requires corporations to have a minimum of three (3) directors, who must be different, natural or legal persons, and who may fill one or more charges as officers (President, Secretary, Treasurer, Vowel, etc.).
5. **Legal Representation:** Although the law does not require the corporation to have a legal representative, the practice has indicated us that it is very convenient to have it and provide it with concrete faculties such as signing contracts to obtain public utilities, Work Agreements, contracts and bank accounts. In the case of corporations operating in or from the Colon Free Zone, the law requires that a moral person representing the corporation must be declared.
6. **Subscription of Shares** The law requires the partnership agreement to be signed by subscribers who must subscribe at least one share each.
7. **Resident Agent:** The law requires all corporations to have one resident agent in Panama, who must be a lawyer or a law firm.
8. **Annual Corporate Rate:** Pursuant to Article 318-A of the Fiscal Code, all corporations, both national and foreign, registered in the Public Registry, shall pay an annual rate of US\$250.00 during the first year and US\$300.00 from the second year, to maintain the full good standing of the corporation. This same article establishes a late payment surcharge, of US\$50.00 per year or fraction of one year morosity and a fine in the amount of US\$300.00 for those cases wherein morosity extends for more than one year.

The Code of Commerce of Panama allows the creation of a variety of corporations (for instance, joint ventures, limited partnerships, limited liability corporation, among others). However, the Panamanian corporation is the one that is being used nowadays by the great advantages offered by the Panamanian legislation thereon.

- **Modalities to operate inside of the Colon Free Zone.**

Law 8 of April 4, 2017 which re-organized the Colon Free Zone. The Colon Free Zone is a segregated area of approximately 400 hectares (approximately 1,200 acres) in use and some 1,000 hectares destined as expansion projects (approximately 2,500 acres), located in Colon, the second city in importance of the Republic of Panama, which is located on the Atlantic Ocean (wherein is located one of the entrances to the Panama Canal) and some 80 kilometers from Panama City, which is located on the Pacific Ocean.

Pursuant to Law 8/2016, in said segregated area it is allowed to perform, exempted from every type of taxes, all kinds of commercial operations, mainly operations of **import, deconsolidation, repacking, consolidation and re-export, of all kinds of merchandise.**

*“Article 40: In the area of free international commerce, the Colon Free Zone may perform the following operations, transactions, business and activities:*

- a. *Introduce, store, exhibit, pack, unpack, manufacture, bottle, mount, assembly, refine, purify, mix, transform and, in general, operate and manipulate all kinds of merchandise, products and raw materials, containers and other commercial effects, with the sole exception of those articles whose import is prohibited or restricted, in accordance with the laws of the Republic;*
- b. *Allow other natural or legal persons, either nationals or foreigners, residents or non-resident having met previously the legal requirements in each case, to perform, in their own name or behalf or in the name and on behalf of third parties the same operations, activities, negotiations and transactions mentioned in the letter a of this article.  
Likewise, allow foreign companies not established in the Republic of Panama, to be represented in the Colon Free Zone for the sole purpose of re-exporting, provided that they meet the examination requirements set forth by the institution and the handling of merchandise;*
- c. *Construct buildings for offices, factories, stores, warehouses, for their own use in the Colon Free Zone or to lease to natural or legal persons referred to in letter b above;*
- d. *Lease plots of land for other natural or legal persons, nationals or foreigners, residents or non-residents, to construct buildings for the same purposes set forth in letter c above;*
- e. *Coordinate with the regulating entity of public services or with the corresponding government entity, whenever it is relevant, the establishment and operation of the services of water, electricity, gas, telecommunication, power, heating, refrigeration, or any other kind of public services and/or hire or coordinate the hiring with other natural or legal persons for the provision of such services.*
- f. *Construct ports, piers, shipyards, loading and unloading sites, railway stations or loading and unloading terrestrial stations, or grant concessions and franchises to other natural or legal persons, national or foreign for the construction and exploitation of such works;*
- g. *In general, permit or authorize all kinds of operations, transactions, negotiations and activities of their own or incidental, to the establishment and functioning of free international trade zones.  
Likewise, the administration of the Colon Free Zone, may allow third parties the incidental activities of banking, insurance, and incidental activities.*
- h. *Authorize natural or legal persons, regardless of whether they are national or foreign, for them, by means of an investment acknowledgment covenant, to develop any type of necessary infrastructure to perform any whatever of the activities specified in the above-mentioned letters.  
Acknowledge, in favor of the Government, the agreed infrastructures, which must be previously received by the entity, after the approval from the Ministry of Finance and Treasury and the General Comptroller's Office of the Republic, and in favor of private persons, the credits resulting from their investments, as it is set forth in the regulations of the entity, the Executive Committee shall authorize, in each case, the agreement to subscribe, which shall be subsequently submitted to the endorsement from the General Comptroller's Office of the Republic;*

- i. *To allow, for strictly social interest reasons, natural national persons to sell food and non-alcoholic beverages, through mobile itinerant stands inside of the segregated area. The administration of the Colon Free Zone shall establish the requirements and the proceedings to issue the authorizations to be granted in these cases. The regulations of this activity shall take into account the existing market, consumer users and their actual needs, as well as the esthetic to be kept by the area; and,*
- j. *Authorize the operation of activities of collective, selective and cargo transportation, inside of the Colon Free Zone. It shall also regulate their corresponding permits.*

In addition, the said Law 8/2017 establishes that those operations that are carried out in the Colon Free Zone shall be exempted from taxes.

*“All merchandise and other articles or trade effects that are introduced in the free trade area held by or operated by the Colon Free Zone or manufactured, modified, assembled, bottled or transformed therein, may leave said area for the following:*

- a. *For the sale to official offices of the United States of America established in the Canal Zone, intended to be used or consumed by persons having the right in accordance with the public treaties, to buy duty-free merchandise;*
- b. *For the sale to vessels going through the Panama Canal bound for foreign ports, or navigating between any enabled port of the Republic and foreign ports;*
- c. *For export; and,*
- d. *For import destined to be used or consumed in the Republic.*

There are basically two ways of operating in the Colon Free Zone:

**a) Becoming a so-called “User Company”:**

To that effect, it is required being the owner of a commercial facility located inside of the perimeter of the Colon Free Zone, whether by reason of having bought it or constructed it, or by reason of being the lessee of a commercial facility located inside the perimeter of the Colon Free Zone.

Those lands located inside of the perimeter of the Colon Free Zone are owned by this institution. The Colon Free Zone leases the lands for private constructions, so that business men become the owners exclusively of the structure or building.

It is convenient to know that user companies are required to have a minimum of five (5) workers. This legal requirement is included in the agreement subscribed by the General Manager of the Colon Free Zone with the user company.

**b) Becoming a Represented Company:**

The law allows a company desiring to operate in the Colon Free Zone to be represented by another company already existing and established. To that effect it is necessary to subscribe a representation agreement, which usually implies that the representative performs, on behalf of the principal, the paper work and other proceedings necessary to import and re-export merchandise. The Colon Free Zone

Administration assigns to the principal company an operation code (identity code) allowing them to perform all of its operations in a way that is different from the operations of the representative.

**Proceedings and Costs of Obtaining an Operation Permit.**

The authorization proceedings on the part of the Colon Free Zone Administration takes approximately between thirty (30) and forty-five (45) days.

Operation costs vary depending on the operating form that is chosen:

- **User companies:** "User companies" shall pay the following operation costs a the Colon Free Zone Administration:
  - US\$3,000.00 on a yearly basis in concept of Operation Code.
  - US\$2,400 on a yearly basis in concept of Operation Permit.
  - Between US\$25.00 and U.S.\$100.00 per month in concept of garbage collection rate, depending on the occupancy area;
  - US\$200.00 per month in concept of security rate, depending on the occupancy area.
- **Represented companies** Represented companies shall pay only US\$3,000.00 on a yearly basis in concept of operation code. Companies operating under this modality, must not incur in operation permit costs or garbage collection or security rates.

Below we have listed the actions foreseen in the Panamanian legislation that may be carried out inside of the Colon Free Zone, other free zones, export processing zones and any other special economic zone administered by the Panamanian government.

**INTERCONNECTION BETWEEN COLON FREE ZONE AND CUSTOMS:**

Panama Customs Authority and The Administration of The Colon Free Zone had created a working group to implement the technological interconnection between the datasystem of both entities. This project might be implemented by the second semester 2020.

Please do not hesitate to contact us if you need additional information.

With our best regards, we remain.

MORAN IP



Hugo Moran R.