



Bundesministerium
für Wirtschaft
und Energie



Legal Frame for Foreign Investment in Bolivia – Renewable Energy

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Berlin, 01/12/2015

Durchführer





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Main Topics

- I. German Investments in Bolivia
- II. Legal Framework for Renewable Energy in Bolivia
- III. Contract Models in the Renewable Energy Sector



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I. German Investments in Bolivia

1. Foreign Investment:

- a) Bolivia- Germany Bilateral Investment Treaty of 1987 (in effect since 1993)
- b) Law 516 of 2014 for the promotion of investments

2. Taxes Bolivia-Germany:

- a) Convention regarding double taxation of 1994
- b) Law 617 of 2014, regarding the tax treatment applicable to international conventions, agreements and other legal instruments signed by Bolivia



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1.a. Bilateral Investment Treaty between Germany and Bolivia (“BIT”)

- What is considered an “investment”? (Art. 1)
 - Movable and immovable property including mortgages and liens
 - Shares from companies and other types of interests
 - Copyrights, industrial property rights, trademarks, technical processes, amongst others
 - Business concessions under public law
- Equal treatment: same treatment as nationals and Most Favored Nation (Art. 3)
- Expropriations (Art. 4): only as a result of public interest and previous compensation.
- Conflict Resolution: *Ad hoc* arbitration tribunal (Art. 11)



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1.b. Law for the Promotion of Investments (Law 516)

- Conditions for investments (Art. 11)
- Obligation to register foreign investment (Art. 13)
- Transfers outside of the country (Art. 15)
 - Capital resulting from the total or partial liquidation of the company or for the sale of shares, interests or other acquired rights, registered investment
 - Net profits generated from the registered investments
 - Income resulting from the resolution of conflicts
 - Payments to foreign suppliers or foreign creditors directly linked to the investment



2.a. Convention Regarding Double Taxation

- Art. 2:
 - Régimen Complementario al Impuesto al Valor Agregado- RC – IVA 13%
 - Corporate Profit Tax: Impuesto de la Renta Presunta de Empresas - IRPE (previamente)/ Impuesto a las Utilidades de Empresas- IUE (Actualmente) 25% sobre la utilidad presunta
 - Impuesto de la Renta Presunta de Propietarios de Bienes - IRPPB (previamente) – Impuesto a la Propiedad de Bienes Inmuebles IPBI (Actualmente) varias tasas
 - Transactions Tax: Impuesto a las Transacciones - IT 3%
- Dividends (Art. 10) 15% of the gross amount
- Interests (Art. 11) 15% of the gross amount
- Royalties (Art.12) 15% of the gross amount

2.b. Law Regarding the Tax Treatment Applicable to International Conventions, Agreements and other Legal Instruments entered into by the Bolivian State (Law 617)

- Scope (Art. 2):
 - “...applicable to all international conventions, agreements and other legal instruments for cooperation, reimbursable or none reimbursable, that have tax effects...”
- Reimbursable and none reimbursable cooperation agreements are exempt from direct taxes in the national market. The VAT shall be assumed by the State (Art. 3)
- None reimbursable/ technical cooperation are exempt from the total payment of import taxes. (Art. 4)



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II. Legal Framework for Renewable Energies

- There is currently no law that regulates renewable energies in Bolivia, therefore, the following statutes are applicable:
 - Bolivian Constitution (2009)
 - Framework Law for Mother Earth and Integral Development for Better Living (Law 300 of 2012)
 - Electricity Law (Law 1604 of 1994)
 - Decree 2048 of 2014, which establishes remuneration prices for renewable energy producers



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III. Contract Models in the Renewable Energy Sector

General Aspects:

1. Electricity is a regulated industry and of national interest (MHE, VMEEA, CNDC, AE)
2. Administrative Agreements with Empresa Nacional de Energía (ENDE) state owned company.
3. Administrative Agreements with state and municipal governments.
4. State Contracts System - Sistema de Contrataciones Estatales (SICOES)

Turn Key Agreements



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- Participate as a foreign company, joint venture or through a subsidiary
- Technical and Economic Capacity
- Compliance/Performance Guarantees
- Taxes: possibility to be exempt from some taxes
- Readjustment of the contract amount
- Applicable Law
- Conflict Resolution



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Vielen Dank!
¡Muchas Gracias!