

A Guide to

**DOING BUSINESS**  
IN MACAU

## PREFACE

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**BN Lawyers** renders services mainly in the area of Intellectual Property, Corporate and Gaming Law, guided by the thorough respect to ethics and deontology which conducts Law Practice.

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**BN Lawyers**

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# CONTENTS

## 1. Introduction

- 1.1 Macau at a glance
- 1.2 Political system
- 1.3 Legal system and Judiciary system
- 1.4 Economic system
  - 1.4.1 In general
  - 1.4.2 Gambling
  - 1.4.3 Offshore
- 1.5 Investment incentives
- 1.6 Financial system
- 1.7 International relationships

## 2. Business vehicles

- 2.1 Types of business vehicles
- 2.2 Companies
  - 2.2.1 Companies main characteristics
  - 2.2.2 Unlimited Liability Company
  - 2.2.3 Mixed Liability Company
  - 2.2.4 Limited Liability Company by quotas
  - 2.2.5 Limited Liability Company by an individual quota
  - 2.2.6 Limited Liability Company by shares
  - 2.2.7 Economic Interest Group
- 2.3 Incorporation of a company
- 2.4 Branch operations
- 2.5 Purchase of a business in Macau
- 2.6 Representatives - agents, distributors and franchisees

## 3. Tax

- 3.1 Taxes on Income
- 3.2 Taxes levied on goods and services
- 3.3 Taxes on assets and wealth
- 3.4 Tax treaties

## 4. Labor

- 4.1 In general
- 4.2 Summary of regulations
- 4.3 Foreign employees

## 5. Intellectual property

- 5.1 In general
- 5.2 Trade marks
- 5.3 Copyright
- 5.4 Patents
- 5.5 Infringement

## Appendix – Useful contacts in Macau

## 1. Introduction

### 1.1 Macau at a glance

Population: 631,000

Languages: Cantonese and Portuguese are the official languages and English is *lingua franca*.

Time zone: 8 hours ahead of Greenwich Mean Time during Winter and 7 hours during Summer.

Location: Eastern Asia, bordering the South China Sea and the People's Republic of China

Climate: Macau has a warm marine temperate climate. Seasonal climate is greatly influenced by the monsoons and therefore temperature difference between summer and winter is fairly noticeable

Working Hours: Government offices work five days a week, starting at 9.00 AM and finishing at 5.45 PM (Monday to Thursday) or 5.30 PM (Friday). Lunch break is between 1.00 PM and 2.30 PM. Most private companies work 9.00 AM to 6.00 PM, take an hour and a half lunch break, and occasionally work Saturday mornings. Banks generally open from 9.00 AM to 5.00 PM (Monday to Friday).

### 1.2 Political system

Macau was the first European settlement in the Far East, established on the 16<sup>th</sup> century. Pursuant to an international treaty, known as the Sino-Portuguese Joint Declaration signed on April 13, 1987, between the People's Republic of China ("PRC") and Portugal, Macau would become a Special Administrative Region of the PRC.

The PRC government resumed sovereignty over Macau on December 20, 1999, bringing 329 years of Portuguese rule to an end.

Under the formula "One country, Two systems", China's socialist-economic system is not practiced in Macau, and Macau enjoys a high degree of autonomy in all matters for the following 50 years, except for foreign and defense affairs.

The Basic Law, the constitution of Macau, was adopted on March 31, 1993, by the National People's Congress of the PRC and is now applicable to Macau.

Macau officials run Macau through the exercise of separate executive, legislative, and judicial powers.

### 1.3 Legal and Judiciary system

In order to implement the principle of high degree of autonomy, the basic and original framework of the legal system of Macau must also be preserved for at least 50 years counting from December 20, 1999, according to the provision made by the Sino-Portuguese Joint Declaration.

The legal system is based largely on Portuguese law or Portuguese civil law system. It is characterized by its strict adherence to the principles of the rule of law and judiciary independence.

The territory has its own independent judicial system, with a high court, where the Judges are selected by a committee and appointed by the Chief Executive and foreign judges may also serve on the courts. Macau has a three-tier court system:

- The Court of First Instance
- The Court of Second Instance
- The Court of Final Appeal

Within the Court of First Instance, Administrative Court was additionally created for handling administrative, taxation and customs matters, whereas Small Claim Civil Court deals with claims not exceeding MOP\$50,000.00 (main types of claims include debts, damage to property, goods sold, consumer claims, etc.). Starting from October 2014, Labour Court and Family and Minor Court were newly added to our system to enhance the efficiency of the procedures in labor and family cases (such as divorce, inheritance, among others).

The Macau SAR Public Prosecution Office is an independent body. The Chief Prosecutor of the Macau SAR Public Prosecution Office is nominated by the Chief Executive and appointed by the Central Government of the PRC. The prosecutors are appointed and released by the Chief Executive. No death penalty or life imprisonment is currently imposed in Macau.

## **1.4 Economic system**

### **1.4.1 In general**

Macau is a free port, low-taxed place and no policy of monetary control is imposed. Macau operates in a free trade economic system with minimal Government interference.

With the exception of the controls and regulations related to suspected terrorist financing and money laundering, there are no exchange controls or foreign currency regulations in Macau.

In view of Macau small population and limited land resources, the Government of Macau has launched a policy of close cooperation with the Pearl River Delta and the neighboring Guangdong Province, while expanding trade contacts with the rest of the world.

Other dominant economic activities in Macau are export-gearred textile and garment manufacturing, banking and other financial services. The clothing industry has provided about three-fourths of export earnings, and gaming, tourism and hospitality industry is estimated to contribute more than 50% of Macau's GDP, and 70% of Macau Government revenue.

Macau is a founding member of the WTO and has a representative office at the organization's headquarters in Geneva. Market-opening large pledges in the sphere of financial services, has been made at the WTO and Macau has maintained sound economic and trade relations with more than 120 countries and regions, with European Union and Portuguese-speaking countries in particular.

From 9.1 million visitors in 2000, arrivals to Macau have grown to 31.52 million visitors in 2014, with over 67% of the arrivals coming from Mainland China. This recent growth has been driven by gambling and related tourism. Tourists from Hong Kong remain numerous, representing about 20% of arrivals.

The average growth rate of economy in Macau between 2001 and 2005 was approximately 10% annually. In 2014, GDP per capita was USD \$87,678.80. Between September to November 2015, the unemployment rate stood at 1.9%.

#### **1.4.2 Gambling**

With the opening of the new licensed casino operators, gambling revenue from Macau casinos in 2006 was, for the first time, greater than those of Las Vegas Strip, making Macau the highest-volume gambling focal point in the world, with 7 billion USD in revenue. And in 2015, it was of 28 billion USD in revenue.

#### **1.4.3 Offshore**

Amongst Bermuda, British Virgin Islands or Bahamas, Macau is one of the most well-known offshore financial centers and tax havens in a worldwide sense. In addition, there are many foreign banks registered and established in Macau as well.

Offshore entities are exempt from income tax, industrial tax and stamp duties. Non Macau residents working as managers or specialized technicians in offshore entities are exempt from salary tax for the first three years of their employment.

Operating offshore service business is entirely feasible in Macau as related offshore law has been in effect since 1999 amended on 2005.

Currently allowed offshore activities are: Information equipment consulting; Information consulting and programming; Data Processing; Data warehouse; Administrative and archiving/filing support; Research and Development; Technology testing and analyses; and ship and aircraft operation and management.

### **1.5 Investment incentives**

Although it is considered that the low rate of taxation and the general lack of restrictions on investment are sufficient to stimulate investor interest in Macau, the Government launches some additional incentives to encourage investment in certain areas, namely tourism related.

#### **Fiscal Incentives**

**Industrial Tax** - For newly established entities, there is a waiver of business registration tax. For previously approved cases, a total exemption is possible.

**Land Rental** - Exemption of land rental, which is under MOP100.00.

**Property Tax** - There is a standard deduction of MOP\$3,500.00 on property tax. If the tax subject is of two or more individuals, its property tax can be similarly deducted the aforementioned amount if and only if one of them is permanent resident of Macao SAR. If the tax subject is companies, individual commercial entrepreneur or non-resident of Macao SAR, it is not eligible for such deduction. A total exemption is granted on profits made from new real estate purchased exclusively for industrial purposes up to five years in Macau, while 10 years for those situated on islands.

**Complementary (profits) Tax** - There is always a possible 50% reduction. In 2013, the exemption allowance is MOP600,000.00.

**Salaries Tax** - There is a 30% waiver and the exemption allowance for its assessment in 2016 is MOP\$144,000.00. It is noted that employer should withhold tax from casual worker whose daily salary is over MOP\$640.00 or employee whose monthly salary is over MOP\$16,000.00.

**Stamp Duty** - In 2014, there is exemption on insurance contracts, banking service charges, admissions of performance, exhibition or any kind of entertainment, as well as putting up or placement of advertisements, signboards and publicity materials.

**Stamp Duty (Conveyance of Property)** - There is a waiver of stamp duty for Macao permanent residents on the first MOP\$3,000,000.00 of the fixed asset value. However, this is not applicable to residents who have enjoyed such an exemption in previous years.

**Tourism Tax** - Exemption of tourism tax on the services provided by luxury, class 1 and class 2 restaurants in group one classification indicated in article 6, and also on proprietary business activities provided by similar business in group one classification of group 1, 2 and 3 hotels indicated in article 5 of the Decree-Law no. 16/96/M.

**Motor Vehicles Tax** - Vehicles intended for use in Macau's Public Services, tourism sector, public transport, and cargo are exempted from MVT.

### Financial Incentives

**Interest Subsidies** (Administrative Regulations 16/2009) - Interest subsidies can be conceded to private companies on pataca bank loans for the purchase of new equipment, as well as for purchase, construction or renovation of industrial buildings, used exclusively by the beneficiary.

The interest subsidies rate is 4% annually.

Interest Subsidies may be granted for a maximum period of 4 years, starting from the first credit refund.

**Subsidies** (Decree-law no. 49/85/M, namely article 11) - Investment projects may be granted refundable and non-refundable subsidies for:

- Manufacture of new products involving high economic risks if justified by technical innovation;
- Innovative and development projects of an industrial (nature) that will benefit the Territory;
- Installation of anti-pollution equipment that may be beneficial to the Territory.

<sup>1</sup> Such incentives are granted on a case-by-case basis; a fully documented application must be submitted, in writing.

### Export Diversification Incentives

Companies registered with the Economic Services and trade associations, are all entitled to apply for a subsidy. Financial support given, usually applicable for trade promotional activities organized by the Trade and Investment Promotion Institute (IPIM) and subject to prior approval, includes the following categories:

#### Costs which can be fully covered:

- Rental of exhibition space;
- Construction, assembling and dismantling costs of exhibition booths;
- Decoration costs of exhibition booths;
- Assistance in operating exhibition booths during exhibition;
- Cost of participation in trade associations, including delegates traveling fees (number of delegates determined by IPIM).

## 1.6 Financial system

Macau does not have a Central Government bank and the note issuing privileges have been granted to Bank of China and Banco Nacional Ultramarino.

The pataca is the monetary unit of Macau (currency code MOP), made up of 100 avos.

The exchange rate is pegged to the HK dollar and is approximately MOP\$103 for HK\$100. For United States dollars, to which the Hong Kong dollar is in turn loosely pegged, the exchange rate is around MOP\$8 to USD\$1.

The various sectors of the financial and monetary policy are regulated and managed by the Monetary Authority of Macau.

## 1.7 International relationships

Macau possesses full autonomy in the conduct of its external commercial relations and can, therefore, conclude and implement bilateral or multilateral trade agreements with states, regions and international organizations.

Apart from being a founding member of the World Trade Organization (WTO), Macau is also a member of the Asia-Pacific Economic Co-operation (APEC) forum which aims to achieve sustained growth and development in the Asia-Pacific region through the promotion of economic interdependence and the reduction of trade barriers.

## 2. Business vehicles

### 2.1 Types of business vehicles

The most common forms of business vehicles for foreign companies wishing to carry on business in Macau are:

- A company incorporated in Macau;
- A branch office of a foreign company;
- The establishment of a representative office in Macau; *or*
- Sole proprietorships.



## 2.2 Companies

Under the Commercial Code, the following types of commercial entities may be established in Macau to carry on business:

- Individual entrepreneur (“empresário individual”- E.I);
- Unlimited liability company (“sociedade em nome colectivo” - S.N.C.);
- Mixed liability company by quotas (“sociedade em comandita” - S.C.);
- Mixed liability company by shares (“sociedade em comandita por acções” - S.C.A.);
- Limited liability company by an individual quota (“sociedade por quota unipessoal - sociedade unipessoal Lda.”);
- Limited liability company by quotas (“sociedade por quotas” - Lda.);
- Limited liability company by shares (“sociedade anónima” - S.A.).

### 2.2.1 Companies main characteristics

	Number of Shareholders	Capital	Mandatory abbreviation
<b>Unlimited liability company</b>	2 or more	There is no prescribed minimum or maximum share capital	S.N.C
<b>Mixed liability company by quotas</b>	1 or more with unlimited responsibility and 1 or more with limited responsibility	There is no prescribed minimum or maximum share capital	S.C.
<b>Mixed liability company by shares</b>	1 or more with unlimited responsibility and 3 or more with limited responsibility	Prescribed minimum share capital: MOP\$1,000,000 There is no prescribed maximum share capital	S.C.A
<b>Limited liability company by quotas</b>	2 to 30 quota holders	Prescribed minimum share capital: MOP\$25,000 There is no prescribed maximum share capital	Lda
<b>Limited liability company by an individual quota</b>	1 quota holder	Prescribed minimum share capital: MOP\$25,000 There is no prescribed maximum share capital	Sociedade Unipessoal Lda
<b>Limited liability company by shares</b>	At least 3 shareholders	Prescribed minimum share capital: MOP\$1,000,000 There is no prescribed maximum of share	S.A.

### 2.2.2 Unlimited liability company

In an unlimited liability company, i.e. partnership, there should be at least two persons. The partners jointly contribute their resources and share the profits derived from the partnership according to the profit-sharing ratios as stated in the partnership agreement.

The partners are jointly and severally liable for the debts and obligations of the partnership. There is no need to register the formation of a partnership with the Business Registry. However, 30 days prior to commencement of the business, application must be made to the Finance

Services Bureau for a business registration to which the relevant taxpayer number is assigned. Thereafter, a prescribed annual business fee is payable in accordance with the business activities to be carried on.

This type of business organization is usually adopted by local professional services such as auditing firms.

### **2.2.3 Mixed liability company**

This type of business organization is also known as limited co-partnership, under which the liability of one or more of the partners is limited to a sum, which they have contributed to the company. Under this type of business organization, there are two groups of partners:

- Limited liability partners (also known as silent partners or financiers) are those whose liabilities are limited to the money invested in the company, but are not involved in the management of the company;
- Unlimited liability partners (also known as working partners) are those engaged in the management of the company and whose liabilities are the same as those of an unlimited liability company.

A mixed liability company can be limited by quotas or by shares. A mixed liability company is subject to registration with the Business Registry. In addition to this, 30 days prior to commencement of business, application must be made to the Finance Services Bureau for a business registration to which the relevant taxpayer number is assigned. Thereafter, a prescribed annual business fee is payable in accordance with the business activities to be carried on.

### **2.2.4 Limited liability company by quotas**

The type of company incorporation mostly adopted in Macau SAR is a company with liabilities limited by quotas. A quota represents a fixed amount of participation in the capital of a company.

A company with liabilities limited by quotas is formed by a minimum of 2 members, known as quota holders. The main characteristics of this type of company are as follows:

- Capital is represented by quotas;
- Quotas are not evidenced by share certificates, but represent a percentage or fixed amount of participation in the capital of the company;
- Individual quotas may have different values, but must not be lower than MOP 1,000.00 and be in multiples of MOP 100.00;
- The minimum capital is MOP 25,000.00;
- A corporation can be a quota holder;
- Quota holders do not need to be residents of Macau;
- Rights, duties of quota holders as well as administration of the day-to-day affairs of the company are stated under the Articles of Association;
- Management of a quota company is usually in the hand of the quota holders who are also appointed as managers or directors, unless the Articles of Association provide otherwise.

This type of company has the following advantages:

- The organization is usually stable as the number of quota holders is, in general, composed of two members, although the law allows a maximum of 30 members, and the management of the company is in most cases vested in its quota holders;
- Restrictions can be provided in the Articles of Association in respect of transfer of quotas, namely to non-quota holders;
- It is regarded as an independent legal entity governed by local laws and its liabilities are not extended to the associate companies of the Investors;
- Company deregistration could be less complex.

### **2.2.5 Limited liability company by an individual quota**

Under the Commercial Code it is possible to incorporate a company with limited liabilities owned by a single quota holder.

### **2.2.6 Limited Liability Company by shares**

Commonly referred to as S.A. in Portuguese, the characteristics are similar to companies with liabilities limited by quotas, with the following exceptions:

- The minimum capital is MOP\$1,000,000;
- Capital of a S.A. company is divided into shares and shares certificates are issued;
- The company must have at least three (3) shareholders;
- A S.A. company must have three Boards:
  - (a) BOARD OF GENERAL MEETINGS, to preside over the shareholders meetings;
  - (b) BOARD OF DIRECTORS, in which the power to manage and run the affairs of the company is vested;
  - (c) BOARD OF SUPERVISORS, to which is given the duty to overlook the acts of the Directors and the affairs of the company.
- Members to the said Boards are appointed or elected by shareholders, and the number of members of each Board has to be odd numbers;
- A body corporate can be a member of any of said Boards, but must be represented by an individual;
- A member serving on the Board of Directors cannot be at the same time a member of the Board of Supervisors, and vice-versa;
- The Board of Supervisors is composed of three members and one of them must be a registered auditor or a firm of auditors;
- Duties of the Board of Supervisors may be fully entrusted to a registered auditor or a firm of auditors, in which case is designated as a Sole Supervisor;
- In addition to the said Boards, it is also required to appoint a Company Secretary, whose duties are performed by an individual or a registered lawyer.

Notwithstanding the duties specially provided in the articles of association, the duties of members forming part of any of aforesaid Boards are stated under law, especially in the Commercial Code.

### 2.2.7 Economic Interest Group (Agrupamento de interesse económico - A.I.E)

This type of business organization, such as joint ventures, is formed by means of joining 2 or more companies without affecting their qualifications of legal person, aimed at promoting and developing each other's economic activities or simply at improving and expanding the economic activities of their companies.

## 2.3 Incorporation of a company

A company is incorporated in Macau following the bellow mentioned procedures:

	Procedures	Responsible entity	Observations
1	Firm name certificate	Business Registry	A firm name must be proposed and the object of activities must be defined
2	Articles of Association (Within 60 days after the firm certificate is issued)	Registered Lawyer in Macau	The Articles of Association must be notarized by a notary
3	Declararion of initiation of activity	Finance Services Bureau	The following documents must be delivered: 1. Finance Services Bureau M1 Form for Industrial Tax (signed and notarized); 2. Copy of identification documents; 3. Copy of the Articles of Association.
4	Registration of the company (Within 15 days after the Articles of Association are signed and notarized)	Business Registry	The following documents must be delivered with the application for registration: 1. Notary certificate of the Articles of Association; 2. List of names and addresses of shareholders and of members of the boards; 3. Acceptance of Appointment by the members of the boards; 4. Copy of the M1 Form delivered.

After completion of company registry, employers should fill in the M/2 form and submit it to the **"Finance Services Bureau- Professional Tax Division"** within 15 days of any employment (Law no. 2/78/M).

The Employer is responsible for the enrolment of himself and for his employees to the **"Social Security Fund"**. Quarterly payment should be made in January, April, July and October of every year. (Law no. 4/2010 and Decree-Law no. 58/93/M, article 38 and 39).

Employers should file employees' monthly records in the office for random inspection by the **"Labour Affairs Bureau"** (Decree-Law no. 50/85/M).

The company should file Fixed Asset Listing, Balance Sheet and Meeting Minutes Book after commencing operation. (Decree-Law no. 40/99/M).

The Business Registry will then issue a certificate of incorporation, certifying the name, date of incorporation of the company, object of activity, shareholders, company capital, division of company capital, and representation of the company. The company legal existence and personality will commence from the date of registration of their incorporation.

### **Firm Name**

A company name will not be permitted if it is identical to that of an existing company, and there are certain restrictions on the use of particular words. A company may be incorporated with either a Portuguese or Chinese name, or both. It can also be incorporated with an English name, but then both Portuguese and Chinese Names must also be incorporated.

### **Shareholders**

The name, address and shareholding of the company shareholders are filed on public record at the Business Registry. Shareholders can be individuals or corporations of any nationality, domicile or residence.

The shareholders meetings can be held anywhere within Macau SAR or places outside Macau SAR with unanimous consent of all shareholders, as long as place of meeting is specified in the meeting notice.

### **Directors**

A company must have the number of legally prescribed directors, and they can be individuals (if they are 18 years old) or corporations of any nationality, domicile and residence. The Business Registry will keep a public record of their names, addresses and business titles.

The board meetings can be held anywhere within Macau SAR or places outside Macau SAR with unanimous consent of all directors, as long as place of meeting is specified in the meeting notice.

### **Company secretary**

A company secretary must be nominated for Limited Liability Company by shares, companies with more than 10 shareholders or quota holders, if they issue bonds or if their capital is above the limit defined by Executive Order of the Chief Executive. All other companies can also nominate a company secretary if desired.

A director or an employee of the company can be nominated as a company secretary or the services of a Lawyer registered in the Macau Lawyers Association can be retained to fulfill that position. The Business Registry will keep a public record of the name and address of the company secretary.

Besides other functions that the law or the articles of association may assign, the company secretary's main functions are to certify legally required translations, certify the signature of shareholders or of directors, maintain the company's statutory books, produce the minutes book of directors' and shareholders' meetings and the share certificate registration book, promote the commercial registration as required by law and prepare the documents that must be kept on public record.

BN Lawyers can provide company secretarial services.

### **Auditors and accounts**

In order to provide a true and fair view of the condition of the company, books of account must be maintained in order, so that transactions can be justified. The accounts are submitted every year to the Finance Services Bureau.

### **Business registration**

Under the Business Registration Law, a company is required to obtain a Business Registration Certificate from the Business Registry.

Within 15 days of any amendment, the company is obliged to update the information originally provided to the Business Registry.

## **2.4 Branch operations**

Foreign corporations without the registration of their headquarters or their main administration in Macau are permitted to establish branch offices in Macau. Those offices are under the same legal and tax commitments as companies incorporated in Macau.

The foreign corporation must designate a representative who resides in Macau and must place a capital for the operation of the branch. Even if the foreign corporations fail to comply with their legal obligations, there will be no legal distinction between the foreign corporation itself and its branch. The branch will only be an address where the business of the corporation itself is operated.

A foreign corporation must register the branch office with the Business Registry as an overseas company which has established a place of business in Macau. This must be done before the commencement of the company's operation in Macau as to effectively carry on business, contract with utility and other companies and generally get the business started up, will not be possible until then.

Registration is done by submitting to the Business Registry, certified copies of the constitutional documents of the foreign corporation, listing of its directors and shareholders, the particulars of a representative who is resident in Macau and certain other prescribed particulars.

For the establishment of a branch office in Macau, the following documents should be provided:

- Duplicate of the Articles of Association of the foreign corporation. A notary from the country of origin should testify to the authenticity of the duplicate;
- Minutes of the Board of Directors of the foreign corporation in which: **1)** the establishment of a branch is approved; **2)** one representative (with residency in Macau) is appointed with full authority to act of its behalf to sign the relevant constitutional documents for the branch. **3)** it is defined the name of the branch (exact name as the foreign corporation; the use of the word "BRANCH" is optional) and the scope of business (which should relate to the scope of business of the foreign corporation); **4)** The capital and address of the branch; and, **5)** the signatories of the representative(s) necessary to uphold the company's responsibility are defined;
- A certificate issued by notary in the country of origin, stating : **1)** the company is duly formed and organized according to law; **2)** the signatories have full power to approve the Minutes; **3)** the authenticity of the signatures; and, **4)** the legality under the Articles of Association and the Company Act in the country of origin;

The notary in the country of origin is required to provide an "Apostille" to certify the notary's signature and the stamp/seal. If the company is unable to notarize the document, it is required to provide a "Consular Attestation" (a Declaration of Embassy of the P.R.C.) to certify that the signatories have the power to issue the relevant document.

- Letter of acceptance of appointment signed by the representative of the foreign corporation.

These documents must be provided in Chinese or Portuguese. If the notarial certificate, Articles of Association and the Minutes are in English or in another language, a Chinese or Portuguese translated version is required.

A Chinese Embassy or Consulate may certify the transcript when the translation is made outside of Macau. Any Notary can also certify the translation stating that the transcript is done by him and is faithful to the original.

## 2.5 Purchase of a business in Macau

There is one way of acquiring a business in Macau, and that is to buy the shares of the company that owns the target business or assets.

The purchase of shares in a Macau company will involve the purchaser acquiring the company with all of its assets and liabilities at the time of purchase. The limit of the buyer responsibility will be restricted to the amount of capital that he subscribes. The buyer should, nevertheless, try to minimize its risk of conducting due diligence exercise in regards to the target company and by obtaining appropriate warranty and indemnity protection in transaction documentation.

## 2.6 Representatives - agents, distributors and franchisees

The Commercial Code regulates the appointment and activities of representatives such as agents, distributors or franchisees in Macau, but provides a broad area in which the parties can freely negotiate their own terms.

## 3. TAX

### 3.1 Taxes on income

#### Professional Tax

The Professional Tax is levied on income from employment with progressive rates varying between 7% to 12% charged on the individual annual income of the contributor (salaried and white collar employees, as well as self-employed professionals) in excess of MOP144,000 (USD 18,461.53).

In the case of self-employed professionals, tax is based on the net profits of the previous year, providing appropriate accounting records are kept.

#### Complementary (Profits) Tax

It is levied on net profit derived from any commercial or industrial business. Sliding-scale tax, averaging 12% for income over MOP600,000.00 and exempt for income below this level.

Annual Collectible Income	Percentages
Income until MOP\$600,000.00	Exempt
Above MOP\$600,000.00 patacas	12%



### Property tax

Property tax is levied on revenues derived from urban buildings located in Macau SAR and is due from the owner of the right to the income. The income derived from property when leased is the amount of the rent, and when not leased, it is the valuation of the property as if it was rented.

Property tax is applied on an annual basis of 10% of the actual rental income or 6% on the official ratable value if not rented out. A 10% deduction on the income or rental value is allowed for repair and maintenance expenses if properly supported by the landlord or owner.

There are several exemptions<sup>3</sup> to the property tax, namely:

1. **Total exemption** for real estate purchased exclusively for industrial purposes;
2. **Partial exemption**: during a period of five years in Macau and ten years on the islands for new real estate rented for industrial purposes.

## 3.2 Taxes levied on goods or services

### Consumption tax

Consumption tax is charged on fuel and lubricants, tobacco and alcohol. The tax on some alcoholic drinks is levied *ad valorem* according to the CIF/Macau value on the remainder.

It should be noted that fuel supplied to industrial units is free from tax.

### Motor Vehicle Tax

This tax is levied on the actual sale price of new vehicles covering automobiles, motorcycles and scooters, and on imported vehicles for the private use of the importer or marketing agents, varying between 30% and 55% (motorcycles and scooters, 10% and 30% respectively).

Vehicles intended for use in Macau's Public Services, tourism sector and public transport, cargo, are all exempt from Motor Vehicle tax.

### Stamp duties

There are many situations and acts possible of being taxed under Macau stamp duty regulations. In Macau, Stamp duty is no longer levied on petitions or other documents addressed to the Public Administration.

The stamp duty will apply on: 1) *Acts and Documents*; 2) *Advertisements and Other Forms of Publicity*; 3) *Insurance Contracts*; 4) *Lease Contracts*; 5) *Contributions and Taxes*; 6) *Shows*; 7) *the Conduct of Certain Defined Activities (Administrative Licenses)*; 8) *Banking Operations*; 9) *Transport*; 10) *Games and Lotteries*; 11) *the Incorporation and Amendment of Companies*.

The onerous transfer of property (real estate) is subject to 1% stamp duty when the transaction price is and below MOP\$2,000,000.00, 2% when the transaction price is within MOP2,000,000.00 to MOP\$4,000,000.00, and 3% when the transaction price is above MOP\$4,000,000.00.

<sup>2</sup> The conditions of these exemptions are mentioned in 1.5 above

For free transfer of property (real estate) or free transfer of assets over MOP\$50,000.00 is subject to 5% stamp duty.

If it is companies or non-residente who obtain property (real esate) and assets, either by onerous or free transfer, an exact 10% of stamp duty will be charged.

The stamp duty on certain acts and situations can be exempted or partially reduced.

### **Social Security Contributions**

The monthly contribution made by the employer is MOP30.00 per resident employee and MOP45.00 per non-resident employee.

### **3.3 Industrial Tax**

Charged on all individuals and companies engaged in any commercial or industrial business. Fixed annual fee varies according to the nature of the business. The usual value is MOP300.00. This tax is applied to each activity the company conducts. Therefore, the total yearly tax is a cumulative of the tax for the various activities.

There is a 50% reduction for businesses located in the islands (except for offshore banking operations).

### **3.4 Tax treaties**

Macau has signed Conventions for the avoidance of double taxation with PRC and Portugal, being both of them already implemented. Besides these, other conventions were signed with Belgium and Mozambique, yet waiting for the completion of internal jurisdiction procedures for implementation. All Conventions are based largely on the OECD and UN models for double taxation treaties.

## **4. Labor**

### **4.1 In general**

Employment in Macau is less regulated when compared to many other jurisdictions. The Government has revised by the labor legislation by enacting a new legal regime.

The Labor Relations Law (Labor Law), enacted by Law no. 7/2008 of 5 of August, applies to all the labor relations entered with in Macau with local residents or foreign nationals, in all industries or sectors of activities with the following exceptions:

- Civil servants;
- Labor relations between spouses or persons in a *de facto* union;
- Labor relations of a family relative (up until the 2nd degree of relation) who lives in the same premises as the employer;
- Relations established under a contract of apprenticeship or vocational training.

Special legislation will regulate the following:

- Labor relations established with non-resident -workers;
- Labor relations of seafarers;
- Labor in part time.

The Labor Relations legal regime will prevail over any contractual terms that are less favorable than the basic protection provided by that legislation. However, employers and employees can establish different contractual terms of service to govern their relationship if they are more favorable than the ones legally prescribed.

## 4.2 Summary of regulations

### **Wages**

There is minimum wage legally prescribed for cleaning and private security services employees in Property Management Area.

### **Hours**

The normal work period cannot exceed 8 hours a day and 48 hours per week. The worker is entitled to a recess/interval of at least 30 consecutive minutes in order to ensure that he does not render more than 5 consecutive hours of work.

If the nature of the employer demands, a different daily limit can be agreed as long as the worker can enjoy 12 daily hours of rest being that 10 hours must be consecutive.

The Labor Law establishes that in addition to paid statutory (public) holidays, all employees are entitled to a paid rest period of twenty four consecutive hours for every week of work.

When the employee renders services during the weekly leave, the employee will be entitled to:

- 1) Enjoy a compensatory rest day in the following 30 days, on a date to be determined by the employer; and,
- 2) be paid a compensation equal to a pay day of work.

### **Statutory holidays**

Statutory holidays are: January 1; Lunar New Year (the first, second and third days of Lunar New Year); Cheng Ming Festival; May 1; The day after the Mid Autumn Festival, October 1, Chong Yeong Festival, Macau SAR Establishment Day, being the 20th of December.

When the employee renders services during the statutory holiday, the employee will be entitled to:

- 1) Enjoy a compensatory rest day in the following 30 days, on a date to be determined by the employer, which can be substituted, with the agreement of the employer, by the payment of one additional pay day of work; and,
- 2) be paid a compensation equal to a pay day of work.

**Benefits***Annual leave*

Employees are entitled to a minimum of six working days of paid annual leave for every calendar year.

*Employee's compensation*

Employees of all sectors of activity, excluding the civil servants, are entitled to compensation in respect of work-related injuries. Employers will be responsible for such compensation either directly or through an insurance company.

**Other conditions***Maternity leave*

The pregnant worker is entitled to a maternity leave of 56 days, being that 49 of those days must be taken immediately after birth delivery and the remaining period either before or after such date in accordance with the decision of the worker.

The pregnant worker with more than one year of working relation on day of parturition is entitled to be paid the base pay wage for the period of the maternity leave.

*Sickness leave*

Employees are entitled to be paid sick leave to a limit of thirty consecutive days or forty five non consecutive days, during the same calendar year.

*Severance pay*

When the employer takes the initiative to dismiss an employee by any reason other than just cause for termination, the employee will be entitled to severance pay if the labor relation is longer than 3 months.

**Form of contract**

There is no requirement in Macau for a contract of employment to be in writing, except the contracts of employment with fixed-term or the ones entered into with minors.

**Termination**

An employment contract can be terminated in either one of the following forms:

- Revocation – by a dated and signed written agreement between employer and employees;
- Dissolution – by initiative of the employer or the worker, with or without just cause. Just cause is any fact or serious circumstance which makes it virtually impossible to maintain the working relation;
- Expiration – When, namely, in the fixed-term employment agreements the term date established is reached or when the fact that the termination was dependent of occurs. An employment contract can also expire by the impossibility of the worker to render his work, due to an accident or working incapacity. No prior notice or indemnification is due in this form of termination of employment;
- Termination – when the employer and worker terminate the employment contract during the experimental period.

The services of an employee on probation can be terminated by him or by the employer without notice.

At any time the employer or the employee can terminate their labor relation without a just reason, provided they respect the established period of notice before termination. The employer must give fifteen days notice of termination and the employee must give seven days notice of termination.

The following facts can be considered as just cause for termination of the employment agreement:

- Misbehavior of the employee that violates an obligation established in the Labor Law or in the employment agreement;
- Lack of quality of the service rendered;
- More than 3 consecutive days of unjustified absence of work or 5 non consecutive days of unjustified absence of work in a single calendar year, independently of the fact that such absence causes or not any losses to the employer;
- Significant alteration in the conditions of the agreed labor relation.

When the justification is deemed inconclusive, the dismissal is considered illegal and subject to the consequences arising from law.

### **4.3 Foreign workers**

Macau enterprises may conclude contracts of rendering of services covering the provision of work by non-residents with third party entities, provided that a favorable authorization has been obtained.

In considering an application, the Human Resources Office must agree that there is no suitable local candidate for the position, that the proportion between resident and non-resident workers deemed to be acceptable and that the candidate regularly complies with all the legal obligations towards resident workers. The Economic Services will also analyze the application.

A local sponsor is required (employing company) to support the application, and to assume responsibility regarding the supply of appropriate housing and to arrange the immediate repatriation of the non resident employee.

In the case of skilled workers, or of workers who, taking into account the conditions of the local labor market, are not normally available in Macau, the Government may authorize employment contracts with non-resident workers. The custody of such workers shall be the responsibility of the employing entity.

## 5. Intellectual property

### 5.1 General

Macau possesses comprehensive laws, which ensure protection of intellectual property. This protection derives not only from the local legislation but also from international treaties, such as:

- The Paris Convention for the Protection of Industrial Property (Paris Union);
- The Nice Agreement Concerning the International Classification of Goods and Services;
- The Berne Convention for the Protection of Literary and Artistic Works (Berne Union) signed in Berne, September 9, 1886 as revised in Paris July 24, 1971, and amended September 28, 1997;
- The Geneva Universal Copyright Convention;
- The Agreement on Industrial Property Rights in Relation to Trade (TRIPS).

The Madrid Agreement and Protocol and the Washington Patent Cooperation Treaty are not in force in Macau.

### 5.2 Trade and service marks

A trade or service mark is any sign that is capable to distinguish the goods or services of a company from those of others and can be represented graphically by words, characters, numbers, figurative elements, and combination of different colors, three-dimensional, sounds or any combination of these. Therefore, may be registered in respect to specified goods or services under the Industrial Property Code.

Although the registration of a trade mark under the Industrial Property Code gives the owner the right to prevent third parties from using his mark, or a deceptive similar mark without the owners consent for the products or services for which it is registered, a trademark owner with either a registered or unregistered trademark may also protect the mark under "Action of unfair competition" under the Commercial Code regulations.

To register a trademark in Macau the following information will be necessary:

- Name, nationality and address of the applicant;
- Nature of business (industrial, commercial or other);
- Reproductions of the mark. They need to be in colour if colour is claimed as a distinctive feature of the mark;
- Class and specification of products or services according to the international classification, established by Nice Agreement;
- Power of attorney.

If priority is claimed, then the applicant must provide the information regarding the country, date and number of the earlier application. Within 3 months from the application the priority document must be submitted.

### 5.3 Copyright

Copyright refers to the creator's right to possess, use, and generate benefits from his pieces, which are the product of human creativity and are protected by copyright, especially includes works related with literary, news, scientific nature, including works generated in computer programming, artistic works, movies, musical works, dramatic works, computer software, photography, sculpture, ceramic pieces, architecture.

Copyright protection is automatically effective once the piece is made, without the need of registration and public disclosure. Copyright protection is conceded for the life time of the author plus 50 years. However, for the rights of the artists, they are conceded 50 years starting from the year when the performance is recorded in audio or video.

The copyright will be owned by the author or intellectual creator of the work. The ownership of the economic rights in a work made on behalf of another person, either in fulfillment of official duties or under an employment contract, shall be determined in accordance with what has been agreed. Any person, who in any way, either totally or partly, subsidizes or finances the preparation, completion, disclosure or publication of a work, shall not thereby acquire any copyright in the said work, unless otherwise agreed in writing.

The original owner of the economic rights, and also his successors or transferees, may freely authorize third-party use of the work or assign the copyright works, as long as it is done in written and the terms in which it is conceded, clearly identified, and also, the work or works in question are sufficiently identified.

### 5.4 Patents

Any inventions, in any area of technology, pertaining to products or processes for obtaining products, substances or compositions, even if they involve a product composed of biological matter or that contains biological matter or a process that permits the production, processing or use of biological matter, shall be patentable provided that such inventions are a novel, involve an inventive step (if, for a person skilled in the art, the work is not obviously invented based on prior art), are industrially applicable (its subject matter can be manufactured or used in any type of industrial or commercial activity).

Invention patents and utility patents focus on the improvement of the function, technology adopted, manufacturing technique, users' convenience, etc. of a product. However, the technical level of a utility patent is lower than that for invention patent.

For registered invention patents (or applied by extension), the duration of protection is 20 years, counting from the date of application (or the date of application in China). For registered utility patents, the duration of protection is 6 years, counting from the date of application.

The applicant of patent application or the owner of registered patent is allowed to transfer the ownership of patent.

The applicant for a European patent and the holder of a European patent, processed according to the rules of the European Patent Convention, signed in Munich on October 5, 1963, may request the extension of the application or of the patent to Macau, when the enacted extension of European Patents is in force. Meanwhile, according to Notice of Chief Executive No. 7/2004, authorized or applied patents at National Intellectual Property Bureau of People's Republic of China can also request the extension of the patent or of the application to Macau. Following information will be necessary:

- Name, nationality and address of the applicant;
- Name, nationality and address of the inventor/author;
- Specifications of the invention;
- Claims;
- Abstract of the invention;
- Drawings;
- Summary description of the invention (preferably of not more than 150 words or 400 characters);
- Power of attorney.

If priority is claimed, then the applicant must provide the information regarding the country, date and number of the earlier application. Within 3 months from the application the priority document must be submitted.

### **5.5 Infringement**

Infringement of any industrial property right is punishable by law. Obtaining illicit benefit for oneself or for a third party within the context of an entrepreneurial activity without the consent of the holder of the industrial property right shall be punishable by a prison sentence or by a fine.

Anyone selling, circulating or concealing products counterfeited and being aware of that situation shall be subject to a prison sentence or a fine.

Those who, with intend to secure unlawful gains for themselves or for third parties, make or authorize use, as their own creations, of works that are mere reproductions, in whole or in part, of the works of others, thereby causing prejudice to the authors concerned, shall be punished with imprisonment or with a fine.

Remedies for infringement of all intellectual property rights include an injunction, destruction or forfeiture, fines, damages and an account of profits.

The Customs Department conducts the monitoring of goods and services to ensure the protection of industrial property rights at all phases and in all sectors of the production process, including in the public sector. The Customs Officer possess sufficient power to search and seize any goods that may infringe in any the laws and regulations in Macau, and to enforce trade mark and copyright.



## Appendix

### Useful contacts in Macau

#### Business services

**Macau Trade and Investment Promotion Institute**

[www.ipim.gov.mo](http://www.ipim.gov.mo)

**Macau World Trade Centre**

[www.wtc-macau.com](http://www.wtc-macau.com)

**Macau Industrial Parks Development Co. Ltd**

[www.concordia-park.com](http://www.concordia-park.com)

**Macau Chamber of Commerce**

[www.acm.org.mo/en/main1.htm](http://www.acm.org.mo/en/main1.htm)

**Macau Junior Chamber of Commerce**

[www.macaujc.com.mo/index.php](http://www.macaujc.com.mo/index.php)

**E-Customs Services Cater to the Prosperous Import Trade Activities**

[www.tedmev.com/english/index.php](http://www.tedmev.com/english/index.php)

**BN Lawyers**

[www.bnlawmacau.com](http://www.bnlawmacau.com)

#### Macau SAR Government

**Home Page**

[www.gov.mo](http://www.gov.mo)

**Economic Services**

[www.economia.gov.mo](http://www.economia.gov.mo)

**Finance Services Bureau**

[www.dsf.gov.mo](http://www.dsf.gov.mo)

**Labour Affairs Bureau**

[www.dsal.gov.mo](http://www.dsal.gov.mo)

**Human Resources Office**

[www.grh.gov.mo](http://www.grh.gov.mo)

**Social Security Fund**

[www.fss.gov.mo](http://www.fss.gov.mo)

**Macau Customs Service**

[www.customs.gov.mo](http://www.customs.gov.mo)

**Land, Public Works and Transport Bureau**

[www.dssopt.gov.mo](http://www.dssopt.gov.mo)

**Maritime Administration**

[www.marine.gov.mo](http://www.marine.gov.mo)

**Statistics and Census Service**

[www.dsec.gov.mo](http://www.dsec.gov.mo)

**Financial**

**Monetary Authority of Macau**

[www.amcm.gov.mo](http://www.amcm.gov.mo)



[bnlawyers@bnlawmacau.com](mailto:bnlawyers@bnlawmacau.com)  
[www.bnlawmacau.com](http://www.bnlawmacau.com)

309 - 315 Avenida da Praia Grande, Nan Yue Com. Ctr.7 - Macau

Tel: +853 2833 1808 Fax: +853 2835 5072