

A semi-transparent blue map of Nicaragua is overlaid on the left side of the image, showing the country's outline and major islands.

# DOING BUSINESS NICARAGUA



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*This document is part of a series of guides for doing business in Central America.*



# NICARAGUA

Official name: **Republic of Nicaragua**

Capital: **Managua**

**Main cities:** Managua, Leon y Masaya

**Form of Government:** Presidential Republic

**Surface:** 130,370 Km<sup>2</sup>

**Population:** 6,527,691 inhabitants (2019)

**Official language:** Spanish

**GDP (PPP):** Per Capita: USD \$5,407 (2019)

**Fiscal year:** Calendar year

**Official currency:** Córdoba C\$, NIO

**Exchange parity with the annual average USD\$:** 35 per \$1

**Main competitive advantages of investing in Nicaragua:**

- Preferential access to international markets
- Abundance of natural resources
- Availability of skilled labor
- Strategic position and connectivity

**Exports:** \$5.57 billion (2019)

**Main export markets:** United States of America, Central America (Guatemala, El Salvador, Costa Rica, Honduras), Mexico and Taiwan

**Main export products:**

- Clothing and manufacturing
- Mining
- Coffee
- Meat

## TRADE AGREEMENTS in FORCE:

### Multilateral Agreements:

- World Trade Organization

### Customs Unions

- Central American Common Market (MCCA)

### Free Trade Agreements:

- Central America- United Kingdom
- Central America- Korea
- Central America - European Union (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)
- Central America - Mexico (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua)
- Taiwan (ROC)
- CAFTA-DR (Central America - United States - Dominican Republic)
- Central America - Panama (Costa Rica, Guatemala, El Salvador, Honduras and Nicaragua)
- Central America - Chile (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua)
- Central America - Dominican Republic (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua)

### Preferential Trade Agreements:

- Venezuela (AAP.A25TM N ° 25)
- Colombia (AAP.AT25TM N ° 6)

### Bilateral Investment Agreements with:

- Germany
- Argentina
- Belgium / Luxembourg
- Chile
- Korea
- Denmark
- El Salvador
- Spain,
- United States
- Russian Federation
- Finland
- France
- Italy
- Netherlands
- United Kingdom
- Czech Republic
- Sweden
- Switzerland

## **Developing Nation**

*In recent years, Nicaragua has been implementing various programs, projects, and tax incentives to help improve and encourage both domestic and foreign investment, opening doors to the exploitation of diverse resources and economic sectors of vital importance, which has made Nicaragua maintain growth levels higher than the average in Latin America and the Caribbean.*

*Likewise, for many years Nicaragua has been improving the indexes of access to primary, secondary, and university education, which in many cases is free of charge, thus allowing Nicaraguans to prepare themselves, and therefore, obtaining a Human Capital (labor force) better prepared for the needs of investors.*

*Nicaragua, according to its geographic location and standard of living, offers the most competitive labor costs at a regional level, thus offering a qualified labor force and a better opportunity for labor and business growth.*

## **Favorable investment climate**

*For many years, Nicaragua has recognized the importance and economic impact that foreign investment brings to the country's commercial growth by positioning itself as a key country and/or destination for investors. Nicaragua offers a wide range of benefits, according to the economic sector and/or specialty environment such as:*

## **Economic sectors with particular benefits**

### **• Tourism Sector**

*Nicaragua, through the implementation and application of the Law of Incentives for the Tourism Industry of the Republic of Nicaragua (Law N°. 306); the country offers diverse incentives and fiscal benefits in favor of the investor of the Tourism sector. According to the type of tourism activity (Restaurants, Hotels, Lodging Services, Travel Agencies, Airlines, etc.), the following exceptions will be applicable as part of the incentives and fiscal benefits: i) Income Tax (IR); ii) Value Added Tax (VAT), and iii) Import taxes and other exemptions.*

### **• Mining Sector**

*Given the importance of the Mining Sector for economic development for Nicaragua, through the corresponding instruments and especially the regulations established in Law No. 387 "Special Law on Exploitation and Exploration of Mines," stability in the exploration and exploitation of mines is promoted and guaranteed for local and foreign investments.*

*The Mining Sector also benefits from the regulations established in the Law of Temporary Admission for the Active Perfection of Exports, which is a regulation that aims to allow the entry of goods without the payment of customs duties, import tax, or other taxes, under the condition of being perfected, more specifically, subject to any subsequent operation.*

*This allows the importation of goods, and the local purchase of goods, without paying any duties or taxes.*

• **Electricity and Hydroelectric Sector**

*According to the regulations established in Law No. 467 “Law for the Promotion of the Sub-Hydroelectric Sector” and in Law No. 532 “Law for the Promotion of Electricity Generation with Renewable Sources”, the following tax benefits are established for investments in this sector:*

- i. Exoneration from the payment of Import Duties (DAI) on machinery, equipment, and supplies destined for the pre-investment and construction of hydroelectric generation operations.*
- ii. Exemption from Value Added Tax (VAT) on machinery, equipment, and supplies destined for the pre-investment and construction of hydroelectric generation operations.*
- iii. Exemption from Income Tax (IR).*
- iv. Exemption from Municipal Taxes.*
- v. Exemption from Stamp Tax (ITF).*
- vi. Exemption from all taxes that may exist for the exploitation of natural resources.*

*According to the regulations established in Law No. 822 “Law of Tax Concertation”, certain benefits of fiscal nature are established in accordance with the following economic sectors:*

• **Agricultural Sector. Exemption to Producers**

*a) Micro and small industrial and artisanal fishing companies: Value Added Tax (VAT) is exempted, through tax lists established by the Ministerial Agreement.*

*b) Agriculture: Value Added Tax (VAT) is exempted through tax lists established by Ministerial Agreement.*

*c) Agro-industry: VAT is exempted, through tax lists established by Ministerial Agreement, on local purchases and imports of inputs, raw materials, and intermediate goods physically incorporated in the final goods, which in their elaboration are subject to an industrial transformation process.*

• **Health Sector. Hospital Investments:**

*Hospital Investments will be subject to a system of tax benefits per the following regulations:*

*-The minimum investment to enjoy tax benefits shall be the equivalent in cordobas of three hundred and fifty thousand United States dollars (\$350,000.00) in the departments of Chinandega, Leon, Granada, Managua, Masaya, Carazo, and Rivas; one hundred and fifty thousand United States dollars (\$150,000.00) in the Autonomous Regions and Rio San Juan; and two hundred thousand United States dollars (\$200,000.00), in the rest of the country.*

*In this sense and in accordance with the above, an exemption from Import Tariff Duty (DAI), Selective Consumption Tax (ISC) and Value Added Tax (VAT) will be applied to the sale and importation of the goods necessary for hospital construction, equipment, and start-up.*

• **Telecommunication Sector. Written, Radio and Television Media:**

*The importation of paper, machinery and equipment, and spare parts for written, radio and television social communication media, especially local and community media, will be exempt from fiscal taxes, considering the following criteria:*

1. *Large Taxpayers are entitled to as much as two-point-five percent (2.5%) on their declared gross income of the previous fiscal period.*
2. *Other taxpayers will be entitled to up to five percent (5.0%), on their declared gross income of the previous fiscal period.*

• **Forestry Sector:**

*In accordance with the regulations established in Law No 822 “Law of Tax Concertation”, certain benefits of tax nature are established as follows:*

1. *They will enjoy the exoneration of the payment of fifty percent (50%) of the Municipal Tax on Sales and fifty percent (50%) on the profits derived from the exploitation,*
2. *The areas of the properties where forest plantations are established and the areas where forest management is carried out through a Forest Management Plan are exempted from the payment of the Real Estate Tax;*
3. *Companies of any trade or business that invest in forestry plantations may deduct 50% of the amount invested as an expense for income tax purposes;*
4. *Second Transformation and Third Transformation companies that import machinery, equipment and accessories that improve*

*their technological level in the processing of wood, excluding sawmills, are exempted from the payment of duties and import tax.*

***Specialty area***

• **Free Zone Regime:**

*The Free Zone regime is a set of incentives and benefits granted by Nicaragua, through the regulations established in Law No 917 “Law of Free Export Zones”, where two investment routes under the Free Zone Regime are established: Free Zone Operating Companies and Free Zone User Companies.*

*The tax benefits for the Free Trade Zone Operating Companies include the following:*

- *Exemption of 100% of the Income Tax generated by the operations of the Zone, for fifteen years from the beginning of its operation, which may be extended only once, for an equal period, with prior authorization of the National Commission of Free Zones.*
- *Total exemption from the payment of tax on the importation of machinery, equipment, tools, spare parts, and other implements necessary for the functioning and operation of the Zone.*
- *Exemption from the payment of taxes for incorporation, transformation, merger, and reform of the company, as well as the Stamp Tax.*
- *Total exemption from the payment of taxes on the transfer of real estate property assigned to the Zone.*

- Total exemption from indirect, sales, or selective consumption taxes.
- Total exemption from municipal taxes.

The tax benefits for the Free Trade Zone User Companies include the following:

- A 100% exemption during the first ten years of operation and 60% from the eleventh year onwards, of the payment of Income Tax generated by their activities in the Zone.
- Exemption from the payment of taxes on the sale of real estate in any title, including the Capital Gains Tax, if applicable, as long as the company is closing its operations in the Zone and the real estate continues to be subject to the Free Zone regime.
- Exemption from the payment of taxes for incorporation, transformation, merger, and reform of the company, as well as the Stamp Tax.
- Exemption from all taxes, customs, and consumption duties related to imports, applicable to the introduction into the country of raw materials, materials, equipment, machinery, matrices, parts or spare parts, samples, molds, and accessories destined to enable the Company to operate in the Zone; as well as the taxes applicable to the equipment necessary for the installation and operation of economic dining rooms, health services, medical assistance, daycare centers, recreational areas and any other type of goods that tend to satisfy the needs of the personnel of the company that works in the Zone.
- Exemption from customs duties on transportation equipment, whether cargo, passenger, or service vehicles, destined for the normal use of the company in the Zone.

- Total exemption from indirect, sales, or selective consumption taxes.
- Total exemption from municipal taxes.
- Total exemption from export taxes on products manufactured in the Zone.
- Exemption from fiscal and municipal taxes on local purchases.
- To enjoy the fiscal benefits stipulated in the present article or any other that is granted, the Free Zone User Company must maintain a reasonable number of workers according to what was manifested when presenting its application for admission to the Zone, also maintaining the same salaries and social benefits that it offered.

### **Labor:**

Nicaragua offers the most competitive labor costs in the region.

1. A skilled labor force is young and dynamic, with 77% of the population under the age of 40.
2. The Economist's "Labor Market Risk" publication ranks Nicaragua as the second country in Central America with the lowest labor market risk.

*The following are the main steps to start operations in Nicaragua.*

**1**

*Choose the type of company or form of incorporation to structure the business. For more information, see **Commercial / Business Incorporation**.*

**2**

*Register the company in the Public Mercantile Registry before the Tax and Municipal Authorities and the Nicaraguan Social Security Institute. For more information, see **Tax System**.*

**3**

*Choose the facilities to operate. Facilities may be leased, purchased, and/or constructed. Depending on the desired alternative, certain permits and requirements must be obtained and complied with. For more information, see **Real Estate**.*

**4**

*Obtain special permits and licenses applicable to the type of industry to be developed in Nicaragua. For more information, see **Permits**.*

**5**

*Register workers with the Nicaraguan Social Security Institute. For more information, see **Labor Aspects**.*

**6**

*Register any intellectual property required for the operation. For more information, see **Intellectual Property**.*

**7**

*Start operations in **Nicaragua!***

## A. Generalities

In Nicaragua, according to the regulations established in the Constitution, the "Freedom of Enterprise" is established, where both physical and juridical persons, national or foreign, may incorporate as a company or undertake as a merchant, in order to exercise trade within and outside the national territory. According to the Commercial and/or Entrepreneurial Practice in Nicaragua, investors prefer to opt for the following schemes:

### 1. Legal Entity:

#### 1.1. Sociedad Anónima (S.A.):

The SA is similar to a US Corporation. It is a legal entity formed by the pooling of a common fund, supplied by shareholders liable only up to the number of their respective shares, administered by revocable agents, and known by the designation of the object of the company. Their most relevant features are:

a) Limited Liability: The SA grants limited liability to its shareholders. The shareholders are only liable up to the amount of their capital contribution.

b) Capital stock: The capital stock must be a fixed amount expressed in the Nicaraguan currency, the córdoba (NIO). The capital stock is divided into common shares, which may be bearer or registered, and are represented by stock certificates. Nominative shares are the type most used in Nicaragua and must be registered in the name of each shareholder. Shares are

considered securities.

c) Domicile: Each entity must determine which is going to be its corporate domicile and at the same time determine its exact address.

d) Free transfer of shares: In the absence of any agreement of the contrary, shares may be freely transferred from the shareholders to any third party. Neither the approval of the company nor that of the other shareholders is required. Shares are assigned simply by endorsement of the corresponding share certificates. The assignment must be recorded in the company's Shareholders' Registry Book.

e) Board of Directors: The SA is managed by a board of directors elected by the shareholders. The Board of Directors is composed of at least a President and a Secretary.

f) Comptroller: The comptroller audits the general administration of the company and submits an annual report to the Shareholders' Meeting. The comptroller may not hold any other position on the Board of Directors.

g) Legal Representative: The SA must have a natural person designated as the legal representative, who can be a Nicaraguan or a foreigner with legal residence in Nicaragua. Legal Representatives need not be shareholders or members of the Board of Directors and exercise their functions under the powers granted by the company.

h) Duration: In Nicaragua, SA's are not perpetual. The law requires a defined term for SA's that must be specified for a certain number of years. The term may be extended or reduced at any time. The maximum term allowed by law when incorporating a SA is 99 years.

### 1.2. *Compañía Colectiva de Responsabilidad Limitada (CRL)*:

The CRL is similar to a Limited Liability Company. It is a mercantile corporate form of a personalistic nature, in which all the partners, in a collective name and under a corporate name, undertake to participate, in the proportion they establish, of the same rights and obligations. The general partners indicated in the corporate charter are jointly and severally liable for all obligations legally contracted under the corporate name. However, the partners may limit their liability by agreement, provided that the word "limited" is added to the corporate name. Their most relevant features are:

a) Legal name. The legal name of a CRL must include at least the name of one of the partners constituting it, followed by the word "Limitada" (limited), in order to limit the liability of the partners.

b) Limited Liability: The general partners indicated in the corporate charter are jointly and severally liable for all obligations legally contracted under the corporate name. However, the partners may limit their liability by agreement, provided that the word "limited" is added to the corporate name.

c) Capital stock: The ownership of its shares is represented by

quotas (participation), similar to the corporate shares of the members.

d) Domicile: It is necessary for each entity to determine what its registered office will be and to determine its exact address.

e) Assignment of Social Contribution: The Contributions must be assigned in favor of the new member.

f) Administrators: The CRL provides a simpler management structure, since, instead of a Board of Directors, it is managed by at least one Administrator or Manager, who has the legal representation.

g) Legal Representative. CRLs must have an individual designated as the legal representative, who may be Nicaraguan or a foreigner with legal residence in Nicaragua. Legal representatives need not be quota holders and exercise their duties through the powers granted by the company.

h) Duration. In Nicaragua, CRLs are not perpetual. The law requires a defined term for the SA which must be specified for a certain number of years. The term may be extended or reduced at any time. The maximum term allowed by law when incorporating a CRL is 99 years.

### 2. **Natural Person**

In Nicaragua, in order to regulate small and large merchants, two commercial figures are established, which are authorized to

carry out a specific commercial activity, according to their income:

### 2.1. General Regime

2.1.1. Regime designed for taxpayers, whether natural or juridical persons, that carry out economic activities, such as agriculture, commerce, industry, and services as long as they do not qualify in other regimes (Fixed Quota, Labor Income or Capital Income).

### 2.2. Fixed Quota:

2.2.1. Any national or foreign natural person (with or without residence) may opt to register, provided they carry out economic activity and obtain a monthly income equal to or less than C\$ 100,000.00 córdobas or have merchandise inventory with a cost not exceeding C\$ 500,000.00 córdobas.

2.2.2. Small merchants over sixty years of age must register in the small taxpayer's regime. They are exempt from paying a fixed fee but are not required to provide the information required by the Tax Administration as part of this regime.

2.2.3. Parties registered hereunder are not obliged to file returns, but they must pay a fixed monthly fee, based on the rate established by Law.

### **B. Matters to be taken into consideration:**

#### **- Final Beneficiary Law**

On August 21, 2020, the Law of Amendments to the General Law of Registries was approved to create the basis for a registry of the final beneficiary of the Mercantile Companies. The final beneficiary is the natural person who exercises control of the legal entity through the ownership of 25% or more of its shareholding structure. The creation of a final beneficiary registry translates into obligations to share information and documentation of the corporations, as well as the obligation to update these records within a defined time period. Companies will be required to provide documentation to report changes in their shareholders, as well as in the structures of any entity that is a shareholder of such company.

#### **- Law of Signs**

According to Law No. 1054 "Law of Signs", it is intended to levy taxes and exploitation fees on advertising and propaganda. An installation permit must be requested, which is valid for one year, and the annual sign tax must be paid. This tax is due in January of each year and must be renewed 45 days before its expiration.

Thus, the law establishes the following tax charges:

- Annual Sign Tax
- Massive Sign Tax
- Tax for the use of public space for the installation of signs fixed to the ground
- Supervision Tax for the Installation of Mega Signs

### **C. Dissolution and Liquidation.**

*To terminate a business in Nicaragua, the company must be liquidated to pay all outstanding obligations and then proceed with its dissolution. If dividends exist at the time of dissolution, they may be distributed or sold, but only after the company is free of all external and internal obligations. The appointment of a Liquidation Board must precede the liquidation process.*

*In the case of business termination, the employer must guarantee the fulfillment of all labor obligations, which requires the employer to file a notice with the Ministry of Labor to prove that all employees will receive their benefits before the closing of the company. These payments must be made before any other obligations the company may have. The company must pay its taxes and any other obligations owed to the public authorities.*

*If an investor becomes bankrupt, said bankruptcy must be declared by the Court and under the regulations of the Commercial Code. In this case, the investor is separated from the management of the company, and the liquidation of the company is carried out under the control of the creditors who must pay the labor obligations first and then the taxes before they can recover their credit.*

*Provided that a declared bankruptcy is not fraudulent, business restructuring is possible if agreed upon by the investor and the creditors. This agreement must be filed before the Court to suspend the bankruptcy claim. If the bankruptcy is fraudulent, the investor will be criminally charged and could face a prison sentence.*

### **D. Other commercial/business entities**

#### **- Trusts:**

*Trust agreements are primarily used by Nicaraguan business entities to manage their business interests. The structure of the trust, regulated in Law No. 741 "Trust Contract Law" and its amendments, has a minimum of three parties: the benefactor, the beneficiary, and the trustee. According to the specific terms and conditions of the trust, the benefactor transfers to the trustee ownership of certain assets or rights, for the benefit of the designated beneficiaries.*

*It is important to note that any natural or legal person wishing to operate as a trustee must register with the Financial Analysis Unit (UAF) and must comply with a series of regulations regarding Anti-Money Laundering.*

#### **- Subsidiaries / Branches / Representations**

*A subsidiary is a Nicaraguan company whose shares are 100% owned or controlled by a foreign company. The incorporation process of a subsidiary is the same as any other legal entity in Nicaragua.*

*Additionally, Nicaraguan companies may conduct business in Nicaragua through branches of their parent companies, which are subject to regulation by Nicaraguan law and must comply with the following requirements:*

- *Appointment of one or more legal representatives with full powers (Poder Generalísimo) to act on behalf of the branch.*
- *Agreement of the parent company to establish a branch in Nicaragua, stating the purpose, the designated capital of the branch, the domicile in Nicaragua, the term and the appointment of a legal representative.*
- *All constituent documents of the parent company (e.g., bylaws, articles of incorporation and amendments, designation of the current Board of Directors, registrations in the corresponding offices, and the agreement to establish a branch in Nicaragua), must be legalized and apostilled in the country of origin and notarized by a Notary Public in Nicaragua for subsequent registration in the Nicaraguan Public Mercantile Registry.*

## A. Source-based revenue system

The Nicaraguan tax system is generally based on the Principle of Territoriality, according to which only income accrued in Nicaraguan territory or from Nicaraguan sources is subject to income tax. Also, according to the Tax Concertation Law (LCT), any income derived from goods, services, assets, rights, and any other type of activity in the Nicaraguan territory, even if such income is accrued or received abroad, whether or not the taxpayer has had a physical presence in the country, is taxed in the terms previously detailed. However, there are exceptions to this principle for capital income and capital gains and losses, in which income obtained or received abroad by Nicaraguan residents is taxed as long as it comes from assets and capital of Nicaraguan origin.

Therefore, for Income Tax purposes, income obtained from foreign sources should not be included in gross income. In this sense, "territoriality" is, in general, the main element to determining whether income is taxable or not under the Nicaraguan tax regime, but it is of utmost importance to always verify the possible tax linkages particularly for capital returns and capital gains.

Nicaraguan income tax is levied on three types of income:

- i. Income from economic activities
- ii. Labor income
- iii. Capital income and capital gains and losses

For income from economic activities, a general income tax rate of 30% is applied to taxpayers if they receive an annual gross

income over NIO 12,000,000.00 cordobas (approximately \$343,445). \* However, such rate may be different if the annual gross income is lower than NIO 12,000,000.00, according to the following table:

Net annual income	Tax rate
From NIO 0.01 to 100,000 (approx. \$2,862)*	10%
From NIO 100,000.01 to 200,000 (approx. \$ 5,724)	15%
From NIO 200,000.01 to 350,000 (approx. \$ 10,017)	20%
From NIO 350,000.01 to 500,000 (approx. \$14,310)	25%
An excess of NIO 500,000.01	30%

\* Dollar amounts are based on an exchange rate as of February 28, 2021, of NIO34.94 to US\$1

The applicable annual income tax rate applies to net annual income, namely, after applying statutory deductions.

The ordinary tax year runs from January 1 to December 31; however, the Dirección General de Ingresos (DGI or Revenue Office) may authorize special tax years due to the type of economic activity or well-founded request of the taxpayer.

a. Filing of the annual income tax return: taxpayers must file income tax returns for economic activities and pay the corresponding taxes within two months after the end of the fiscal year, no later than the last day of February.

In addition, taxpayers must pay a Minimum Definitive Payment of 2% (for primary taxpayers), 3% (for large taxpayers), or 1% for all other taxpayers based on their gross annual taxable income.

*This Definitive Minimum Payment is paid in monthly advances. At the time of calculating the Annual Income Tax, a comparative operation must be made between the annual Minimum Definitive Payment and 30% of the net taxable income, and the Annual Income Tax will be whichever is greater.*

*Taxpayers who are exempt from the Minimum Definitive Payment must declare and pay monthly advances on account of the Annual Income Tax. These advances are 1% of the monthly gross income.*

*Taxpayers are also subject to income tax retentions on income received from sales or services corresponding to their economic activity. Such retentions are creditable on account of the taxpayer's Income Tax on Economic Activities.*

*b. Deductible expenses: In the Income Tax on Economic Activities, the tax is calculated on the net income, which is defined as gross income minus deductible expenses and costs in accordance with the Tax Concertation Law.*

*Therefore, taxpayers may deduct from gross income all costs and expenses necessary to generate taxable income. Expenses incurred to obtain exempt income are not deductible. However, the Tax Administration is empowered to deny an expense deduction in any of the following cases:*

- *Not considered necessary to generate taxable income.*
- *Excessive or unreasonable.*
- *Belonging to a different fiscal year.*
- *Not supported by the corresponding documentation.*

- *Not recorded in the accounting records.*
- *Withholding at source not made (if applicable).*

*Expenses incurred abroad are allowed as deductions, as are commissions, fees, and compensation for personal services paid to directors, advisors, and other representatives acting abroad, provided they meet the general requirements for deductible expenses.*

*Expenses for technical or financial advice paid to non-domiciled persons or companies are also allowed as deductions, provided that the corresponding tax has been retained.*

*In summary, the Nicaraguan company may deduct from its gross income all expenses necessary to generate income, such as the payment of salaries, professional services, office rent and supplies.*

### **B. Capital income and capital gains:**

*a. Dividends: For the payment of dividends a retention tax of 15% is applied for residents and non-residents.*

*b. Capital gains: They are taxed with a retention tax of 15% for residents and non-residents. However, the taxable base changes according to the type of asset and whether the transaction is onerous or not.*

*c. Personal income tax: Nicaraguan legislation provides different types of remuneration schemes depending on whether the individual is subject to an employment relationship or not.*

## C. Self-employed resident individuals:

Under the professional services scheme, individuals performing gainful activities must register with the Tax Administration, issue authorized invoices and file an annual tax return, as well as the corresponding monthly advances or tax collection depending on the economic activity. The income tax rates are the same as for the income tax on Economic Activities in section A.

The taxable base must be the gross income minus deductible expenses, which are the same as for Business Activity Income Tax and are subject to the same requirements.

## D. Employed Residents / Payroll:

People working under a dependency relationship (on the payroll) are subject to the Labor Income Tax. In this sense, the employer will withhold the corresponding tax on a monthly basis, based on the following rates:

Net annual income	Base tax	Applicable percentage	On excess of
To NIO 100,000 (approx. \$ 2,862) *	-	0%	-
From NIO 100,000.01 to \$200,000 (approx. \$5,724)	-	15%	100,000
From NIO 200,000.01 to 350,000 (approx. \$10,017)	15,000	20%	200,000
From NIO 350,000.01 to \$500,000 (approx. \$14,310)	45,000	25%	350,000
Excess of C\$500,000.01	82,500	30%	500,000

\* Amounts in dollars are based on the exchange rate as of February 28, 2021, of NIO 34.94 to \$1.

As indicated, residents are subject to a monthly withholding of Labor Income Tax, which replaces the need to file a year-end tax return. The authorized deductions from labor income are the employee's contributions to any Social Security regime.

The payment of these salaries is deductible by the company; however, it is necessary to make the corresponding withholding of labor income tax and social security charges.

Nicaragua has a comprehensive social security system that is mandatory for all legally established employers and employees. The Nicaraguan Social Security Institute (INSS) administers the social security system. The system covers disability, sickness, old age, death, maternity, pension, etc. The employer and employee, regardless of their residence, are subject to mandatory contributions as a percentage of all monthly salaries, with 7% of the salary as the monthly contribution payable by the employee, and 22.5% the monthly employer contribution for employers with 50 or more employees (for employers with up to 49 employees, the rate is 21.5%).

## E. Income for Non-Residents:

Non-resident individuals who obtain income from Nicaragua derived from their labor or economic activities, in general, are subject to a withholding tax rate of 20%. The entity paying the income must withhold the corresponding tax and report it to the Tax Administration.

Once non-resident individuals live in Nicaragua for more than 180 days in the calendar year, even if not continuous, they will be considered residents and, therefore, will be subject to withholding tax rates as residents for labor income tax (if there is an employment relationship) or income tax on activities for those individuals who are considered and registered as independent professionals before the Tax Administration.

## F. Definitive Tax Retentions for Non-Residents:

Definitive retention is applied to all Nicaraguan source income paid, credited, or made available to persons and entities domiciled abroad. Therefore, according to Article 53 LCT, a Nicaraguan source income is subject to local definitive tax retention that depends on the nature and concept of the payment. Examples of tax retention and applicable rates are shown in the following table:

Income rates	Tariff
Reinsurance	1.5%
Wages, salaries, pensions in labor relations	20%
Premium insurance and bonds of any kind	3%
Maritime and air transportation of cargo and passengers	3%
International land passenger transportation	3%
International telephone and internet communications	3%
Dividends	15%
Interest and other financial expenses	15%
Royalties, trademarks, franchises, formulas, and similar payments	15%
Any other economic activity	20%

The taxpayer is the company or person domiciled abroad that receives the payments, and the retention is made and declared by the entity making the payment. The amount withheld is not deductible for the withholding agent.

## G. Tax residence and tax domicile:

In accordance with Article 7 LCT, a resident for tax purposes is any legal entity, trust, investment fund, partnership or permanent establishment constituted in Nicaragua, with a registered office or tax domicile in the national territory, or with its actual administration or address in the national headquarters.

## H. Permanent Establishment:

An entity not locally incorporated could have a fiscal presence in Nicaragua when conducting business activities within the country. According to Article 8 LCT, a permanent establishment (PE) is defined as:

"(...) 1. The place in which a non-resident taxpayer carries out all or part of its economic activity, and includes among others: a. The central headquarters of the management or administration; b. Subsidiaries; c. Offices or representatives; d. Factories; e. Workshops; and f. Mines, oil wells, quarries, or any other place of extraction of natural resources.

It also includes: a construction or installation work or project or supervisory activities related to such activities, but only if such work, project or activity lasts more than six months; as well as the company's consulting services, as long as they exceed six months in the course of a year.

*When a person, other than an independent agent, acts on behalf of a non-resident taxpayer with powers to enter into agreements on a regular basis or perform acts on behalf of the company, or generally keeps a warehouse of goods in Nicaragua from where the delivery of goods of the company is made, such company may be considered to have a permanent establishment (PE) in Nicaragua resulting from the activities of that person in Nicaragua.*

*Permanent establishments must register as taxpayers in Nicaragua and must declare and pay the Annual Income Tax, as well as the monthly advances, and comply with the other formal obligations as taxpayers in the country, as well as appoint a resident representative in the country before the Tax Administration. In case the PE distributes dividends abroad, such dividends will be subject to a retention of 15%.*

*The definitions of PE exclude taxpayers working as subsidiaries or representatives of foreign companies engaged in the transportation of cargo and passengers by sea and air, as well as in the international land transportation of passengers, which will be considered non-resident taxpayers.*

### **I. Value Added Tax:**

*Value Added Tax (VAT) is levied on the sale of goods, rendering of services, and importation of goods into Nicaraguan territory. This tax is calculated on the value-added and the final liability is calculated by subtracting the total VAT sales paid on imports, services, or purchases from the total sales and service taxes derived from taxable sales and services during the same period.*

*Sales tax is applied at the manufacturer, wholesaler, retailer, or customs level. The current general VAT rate is fifteen percent (15%), and additional lower rates apply in certain cases. actual de IVA es del quince por ciento (15%) y algunas tasas menores adicionales se aplican en ciertos casos.*

*VAT is paid monthly. It must be declared and paid during the first 15 days of the following month.*

### **J. Municipal Tax:**

*Any company performing an economic activity must apply for a municipal registration to operate. Accordingly, each local government charges a municipal tax corresponding to 2% of the average monthly gross income for the last three months of the previous year. The first time a municipal registration is requested from a municipality, the tax rate is 1% on the capital invested in the municipality (or on the capital stock, in the case of Managua).*

*Nicaragua is divided into 153 municipalities, each with its own municipal registration tax, although the tax is similar among all of them. Registration (matricula) is required by each Municipality in which the entity will carry out an economic activity. Therefore, it is important to establish each location in which taxable events occur to allocate to the municipalities the revenues generated by the entity.*

*In addition, companies that carry out gainful activities in a Municipality must pay a monthly municipal income tax at a tax rate of 1% on the gross income from sales and services in that Municipality.*

## **K. Capital gains tax on the transfer of property not subject to Public Registry.**

*This capital gains tax arises when movable property is transferred, including sales of shares. The applicable tax rate is 15% for residents and non-residents, and the taxable base varies depending on the property being sold and the characteristics of the transaction (onerous or gratuitous).*

## **L. Capital Gains Tax on the Transfer of Assets Subject to Public Registration.**

*The transfer of land, buildings, and other permanent structures (as well as all assets subject to registration before a Public Office, such as vehicles) are subject to a capital gains tax retention ranging from 1% to 7% depending on the value of the asset (whichever is higher when comparing the tax appraisal value and the transaction value):*

Value	Tax rate
From \$0.01 to \$50,000	1%
From \$50,000 to \$100,000	2%
From \$100,000 to \$200,000	3%
From \$200,000 to \$300,000	4%
From \$300,000 to \$400,000	5%
From \$400,000 to \$500,000	6%
Over \$500,000	7%

## **M. Transfer pricing regulations:**

*Transfer pricing rules are based on the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, although to date there is no more specific regulation than that contained in the Tax Concertation Law. Taxpayers subject to the transfer pricing rules must maintain documentation to support the pricing of their transactions with related parties to be able to provide them upon request of the Tax Administration.*

*Advance pricing agreements (APAs) are available, under which the Tax Authorities must agree on the price of related party transactions in advance. An APA is valid for the agreed period, which cannot exceed four years.*

*The regulations establish a general framework for the required supporting documentation, which must be prepared in Spanish; it should only be presented upon a formal request from the tax authorities.*

*Companies doing business in Nicaragua should review and safeguard all their existing intercompany transactions and other transactions that may fall under the transfer pricing regulation to determine whether they are within the scope of the rules and comply with the arm's length principle. Any intercompany transactions that may be anticipated in the future for which transfer pricing support will be required should be evaluated.*

*All companies should document the transfer prices required to support their related party transactions.*

*Nicaragua is an excellent place to acquire properties. Whether as a tourist investment in the coastal areas, in the outskirts of the cities to install industries or in the center of the city for offices or as an investment, the prices that can be found are much more competitive than the countries of the region.*

*Any person, national or foreign, natural or legal, can acquire a property with real title and in general terms, there are very few limitations to the acquisition and ownership of property.*

*Any company in Nicaragua has the option to carry out its activities in its own or leased real estate.*

### **A. Lease of Real Estate:**

*A company may choose to lease a facility to set up its operation. In such case, the applicable law would be the Civil Code, which regulates most commercial leases in Nicaragua, and whose rules are mostly pro-tenant. This law establishes the minimum requirements that leases must have:*

- Description of the accrediting information of the lessor and lessee*
- Details of the real estate to be leased*
- The object of the lease contract*
- Lease fee*
- The term of the lease*
- Acceptance*
- Other contractual regulations*

*The lease option is the most common for the installation of administrative offices or points of sale in which not too much*

*investment will be made to prepare the site.*

*As a general rule, leases of more than 10 years (or 20 for agricultural purposes) are prohibited in Nicaragua, although renewal is not prohibited.*

*Depending on the operation of the company, more or fewer permits will have to be obtained from the municipality and other regulatory institutions.*

### **B. Purchase of operating facilities:**

*If the company will have any type of industrial, agricultural operation or its investment plan involves the construction of significant improvements on a property, the best option is to purchase its own area and invest in it.*

*Before making any real estate investment, it is recommended to conduct due diligence on the property. This is a complete survey of the property documentation including title, liens, easements, mortgages, annotations or limitations, permitted use and any restrictions that may apply, availability of utilities, conditions of improvements. A land appraisal is also recommended.*

*Once the decision to purchase is made, a legal asset holding structure should be formed to secure the ownership rights and protect the company from any operational risks and liabilities. The closing of the transaction is done through a public deed of transfer of ownership rights and the transfer of ownership in an official document before a Nicaraguan notary.*

*The deed will contain the identification of the contracting parties, a legal description of the property and the purchase price, as well as the usual warranties and representations. To be fully effective, the deed must be filed for registration at the Nicaraguan Public Registry. The real estate transfer tax must be borne by the Seller, under the regulations of the tax legislation.*

*The registration and property sales tax are paid only once. Municipal property tax is paid once a year and is subject to a municipal appraisal of the property. The tax is 0.8% of the appraised value.*

**c) Construction of facilities to operate the business:**

*If you wish to carry out construction or improvement on a property, you must have the authorization of the corresponding municipalities. The municipality will grant the construction permit once all the requirements have been completed and the corresponding tax and fees have been duly paid.*

### **A. Registration of the Company as an employer:**

*In Nicaragua, all companies, upon registration with the Revenue Office (DGI), receive an employer number, with which they must incorporate their workers into the mandatory social security under the responsibility of the Nicaraguan Social Security Institute (INSS).*

*Under Nicaraguan law, all workers must contribute to the mandatory social security a percentage of the salary which currently corresponds to 7% of their income, while an employer with less than 50 workers must contribute an amount equivalent to 21.5% of the salary; if there are 50 or more workers, the employer's contribution will be 22.5%.*

*Every employer must register with the Social Security Institute any new worker within three days after hiring, otherwise, it will incur the payment of a fine for late registration.*

### **B. General Labor Code:**

*Under Nicaraguan labor law, the regulations in force are the Labor Code, the Labor Procedure and Social Security Code, and some other executive regulations that regulate certain specific aspects in the administrative area, such as the Oral Labor Administrative Procedure, which establishes the basis of labor law and procedure. Three types of working days are established:*

- Day: 8 hours a day, 48 hours a week*
- Night: 7 hours per week, 42 hours per week*
- Mixed day: 7.5 hours per week, 45 hours per week*

*Note: An extraordinary day cannot be more than 3 hours per day, nor 9 hours per week. Every employee is entitled to a one-hour lunch break.*

### **C. Local and national holidays**

*The following are mandatory vacations with the right to rest and salary:*

- January 1*
- Maundy Thursday and Good Friday*
- May 1*
- July 19*
- September 14 and 15*
- December 8 and 25*

*The executive office has the power to declare a holiday with the benefit of a salary or vacation account at both national and municipal levels.*

### **D. Wages**

*The minimum wage is established annually and is subject to revision among the economic sectors of the country (private enterprise, unions, and ministry of labor), which have a deadline to approve it and make it public until the last day of February of each year. On February 25, 2021, the National Minimum Wage Commission approved a 3% increase in the current minimum wages in all sectors of the national economy, starting on March 1, 2021, until February 28, 2022.*

### **E. Vacations**

*Each worker is entitled to 15 days of vacation with pay after 6 months of continuous work with the same employer. The employer must establish a vacation schedule and inform the workers of the dates. Vacations are configured to be enjoyed, or effectively rested by the worker, and not to substitute his rest or enjoyment with payment.*

### **F. Trial period**

*In an employment contract subject to an indefinite period, the employer may establish a trial period of no more than thirty days and after its expiration may decide whether to continue or cancel the contract.*

### **G. Sick benefits**

*In the case of a common illness of a worker, the employer must pay the worker a salary of three days, after which the Social Security Institute (INSS) assumes the payment of 60% of the salary. In case of a work or travel accident, the Social Security Institute (INSS) is responsible for paying 60% of the salary.*

### **H. Maternity**

*Any pregnant employee is entitled to a maternity leave period of four weeks before the date of delivery and eight weeks after delivery or ten weeks in the case of multiple births. The employer must pay 40% of the salary during the maternity leave period, with the remaining 60% assumed by the Social Security Institute.*

### **I. Termination**

*The employer may terminate the employment contract at will without justifying cause, subject to payment of all social benefits (Thirteenth month, outstanding salary, vacation not taken or rested, and seniority compensation). An employer requesting the cancellation of the contract for just cause must comply with the cancellation procedures before the Ministry of Labor. If the cancellation of the contract is authorized, the employer does not have to pay seniority compensation.*

### **J. Severance pay**

*Each worker is entitled to one month's salary for each year worked up to the third year and, from the fourth year, twenty days' salary up to the sixth year. No more than five months' salary shall be paid. The proportional part shall be paid for the period worked, even if it is less than one year.*

### **K. Payment of the Thirteenth Month**

*Nicaraguan labor laws provide for the payment of one month's salary for one year of effective work or proportional to the period worked until November 31 of each year, commonly known as the Thirteenth Month. The period for calculating the amount of time to be paid as an annual bonus is from December 1 of the previous year to November 31 of the current year.*

*As in any market economy, the protection of Intellectual Property Rights (IPR) in Nicaragua is a necessity. Intellectual property rights are protected by the Constitution. Moreover, Nicaragua is a member of the main international treaties that protect intellectual property rights and has laws inspired by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for each type of intellectual property rights, such as the Law on Trademarks and Other Distinctive Signs; the Law on Patents, Industrial Designs and Utility Models, and the Law on Copyright and Related Rights.*

*Nicaragua is a member of the Berne Convention for the Protection of Literary and Artistic Works since August 23, 2000; the Paris Convention for the Protection of Industrial Property since July 3, 1996; the Brussels Convention Relating to the Distribution of Programmed Broadcast Signals Transmitted by Satellite since December 18, 1975; the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms since August 10, 2000; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations since August 10, 2000; the WIPO Copyright Treaty since March 6, 2003; the WIPO Performances and Phonograms Treaty since March 3, 2003; and the Patent Cooperation Treaty (PCT) since March 3, 2003.*

### **A. Trademarks:**

*Nicaraguan law provides that a trademark is any sign or combination of signs that are sufficiently distinctive to enable consumers to identify and distinguish goods and services from one company to another.*

*The registration of a trademark is valid for ten years from the date of registration. Registered trademarks may be renewed for indefinite periods of ten years. The renewal application must be filed one year before the expiration date or within six months from the expiration date. If the trademark is not renewed within the legal term, the trademark registration will be filed by the Trademark Office and the owner will lose his rights unless he files a new application immediately. The trademark application procedure in Nicaragua takes approximately 7 to 9 months, provided that the Intellectual Property Registry does not issue an objection, or a third party does not file an opposition against the application.*

### **B. Trade name:**

*A trade name is the sign or combination of signs used in commerce to identify a commercial establishment. The trade name may be different from the name of the company.*

*The exclusive right over a trade name is acquired from the moment the trade name is in use in commerce. However, it is important to register the trade name with the Intellectual Property Registry, since in case of infringement, the ownership of the trade name is proved by the certificate of registration.*

*A trade name registration is not subject to renewals, its existence depends on the existence of the commercial establishment protected by it. The process to register a trade name in Nicaragua follows a procedure similar to that of trademarks, and takes approximately 7 to 9 months, provided that the Intellectual*

*Property Registry does not issue an objection, or a third party does not file an opposition based on a previous filing or registration of a similar trademark.*

### **C. Advertising Signs:**

*Advertising signs are memorable slogans or phrases used in commerce to promote a trademark or trade name.*

*The registration of an advertising sign is indefinite; its validity depends on the validity of the trademark to which it is related. To register an advertising sign, the trademark or trade name it will promote must be previously filed or registered, the registration process takes approximately 7 to 9 months, provided that the Registry does not issue an objection, or a third party does not file an opposition in connection with the previous filing or registration of a similar trademark.*

*On April 3, 2020, Law 1024, Law on Amendments and Additions to Law 380, Law on Trademarks and Other Distinctive Signs, entered into force. The reform implies certain novelties, among them are:*

- Implementation of the notification of proceedings by the Intellectual Property Registry by e-mail.*
- Granting of protection to geographical indications as inadmissible trademarks for reasons of third parties, the article previously only protected appellations of origin.*
- Creation of the Registry of Powers of Attorney, which will assign a number to each Power of Attorney.*

### **D. Copyright:**

*Copyrights protect original works of authorship that are fixed in*

*any tangible means of expression and may be literary, dramatic, musical, and artistic works, such as books, pamphlets, letters and other writings; lectures, speeches, sermons and other works of the same nature; dramatic or dramatic-musical works; choreographic and entertainment works; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving, and lithography; photographic works, to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science.*

*Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.*

*Copyright is composed of moral rights, which are inalienable, for example, the right to claim authorship of the work, the right to object to any distortion, mutilation, or modification of the work; and economic rights, which are transferable to third parties.*

*Nicaraguan law establishes that a work is protected by copyright from the moment it is created and exists, which means that works do not require registration or other formalities to be protected. However, it is important to register a work in order to have a public record of the copyright claim. The certificate of registration establishes prima facie evidence regarding the validity of such rights.*

*Copyright protection is granted throughout the life of the author, and 70 years after his death and the protection extends to all countries that are party to the Berne Convention. Accordingly, the author/copyright holder may prevent third parties from using his/her copyrighted material in any of the countries that are party to the Berne Convention based on the copyright registration in a country.*

*Copyright registration in Nicaragua takes approximately one year.*

### **E. Patents:**

*An invention is any creation of human ingenuity that can be applied to industry and meet the patentability requirements established in the Law. An invention may be a product, a machine, a tool, or a manufacturing process. An invention must be new, original, useful, or industrially applicable to be patentable:*

- An invention is new when it does not previously exist in the prior state of the art. The state of the art includes everything that has been disclosed or made accessible to the public in any country of the world and by any means of communication, before the filing date, or before the priority date, if applicable.*
- An invention is of industrial application when it has a specific, substantial, and credible use.*

*The Nicaraguan Patent Law protects the applicant prior to the granting of a patent. The applicant of a patent application may claim damages against any third party exploiting the invention*

*claimed in the patent application, within the period between the date of publication of the legal notice and the date of grant of the patent. The aforementioned indemnity is subject to the grant of the patent and will proceed only in relation to the claims that were included in the grant of the patent. The owner of a patent has the following benefits:*

- The right to exclusively exploit the patented invention and to act against third parties who exploit the patent without authorization.*
- The right to grant a patent license to third parties who authorize the exploitation of the patent, and to receive royalty payments.*

*The term of patent protection is 20 years from the filing date of the patent application. The protection is non-renewable. Patent registration in Nicaragua takes approximately 3 years.*

### **F. Utility Models:**

*The Nicaraguan Patent Law protects the applicant before granting a utility model. The applicant of a utility model application may claim damages against any third party exploiting the invention claimed in a utility model application, within the period between the date of publication of the legal notice and the date of grant of the utility model. The aforementioned indemnity is subject to the grant of the utility model. The benefits to the owner of a utility model are as follows:*

- The exclusive right to exploit the utility model and to act against third parties who are exploiting the utility model without authorization.*

*- The right to grant a utility model license to third parties who authorize the exploitation of the utility model and to receive royalty payments.*

*The term of protection of a utility model is 10 years from the date of registration of the utility model application. The protection is non-renewable. The registration of a utility model in Nicaragua takes approximately two years.*

### **G. Industrial designs:**

*Industrial designs are the aesthetic appearance of an article, i.e., any gathering of lines or colors or any plastic form that gives a special appearance to an industrial product that may help in its manufacture. Once registered, they have a protection period of five years which may be renewed for two additional periods of 5 years.*

### **H. Trade secrets:**

*In Nicaragua, trade secrets are protected under the Law of Patents, Utility Models and Industrial Designs. Said law establishes three basic requirements for a trade secret to be considered as such:*

- 1. It is not generally known or easily accessible to those who are in the circles that normally handle such information.*
- 2. It has a commercial value precisely because it is secret.*
- 3. Reasonable measures have been taken by those who control the information to keep it secret.*

*Trade secrets enjoy indefinite protection and are included in the*

*Law for the Promotion of Competition, as one of the conducts of unfair competition under the name of Acts of Harmful Scheming.*

### **I. Enforcement of intellectual property rights**

*There are many mechanisms to enforce intellectual property rights. These mechanisms can be carried out one at a time or simultaneously. The mechanism to use will depend directly on the objective and the result that the client wishes to obtain.*

- a) Issue a cease-and-desist letter, granting a term to the infringer to cease the infringement.*
- b) File civil or criminal actions, and have the infringement and damages determined by the judicial body. In this case, the plaintiff may request precautionary measures, such as the suspension by the customs authorities of the entry of allegedly counterfeit goods.*
- c) File an administrative action for unfair competition.*

*The use of a Power of Attorney is mandatory for actions related to intellectual property matters in Nicaragua. Such document must be notarized and apostilled in order to be used in the country. The only exception is the payment of patent annuities.*

*Spanish is the official language in Nicaragua. Therefore, all documents in different languages must be translated before being submitted to the corresponding authorities. Translations must be authorized by a Notary Public with at least 10 years of experience.*

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