



PALAU
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Palau's economy is dominated by tourism, subsistence agriculture, and fishing. The government is the country's largest employer. The Compact of Free Association with the United States governs the relationship between the U.S. and Palau. Palau's per capita income is nearly USD 11,000 per year.

Palau's economy contracted in 2008 and 2009, due to the global economic crisis, and its effect on tourism spending and other outside investment into Palau. The number of tourist visitors rebounded in 2010, hit new records in 2011 and 2012, and although the number of arrivals fell slightly in 2013, 2014 saw again a new record for tourist arrivals. However, Palau's present hotel and other infrastructure limit its ability to absorb potential major increases in tourist numbers.

The Foreign Investment Act provides the approval-process guidance for foreign investment, and the Foreign Investment Regulations reserves some businesses to Palauan citizens, including wholesale or retail sale of goods, all land and water transportation, travel and tour agencies, and commercial fishing. Other sectors are semi-restricted, requiring a Palauan partner, though no fixed percent of ownership is required.

Palau's economy uses the U.S. dollar. Palau has a strong banking sector with three FDIC-insured U.S. banks.

Palau's judicial system is viewed by Transparency International and other observers as professional and fair. Regulatory and accounting systems are generally transparent and consistent with international norms.

Foreigners cannot own land in Palau, but they can lease land and own buildings on leased land. Establishing secure land title may be complicated due to the complexity of the traditional land ownership system and occasional over-lapping claims.

Palau is not a member of the World Intellectual Property Organization, the WTO, or any other organization or convention protecting intellectual property rights.

Palau has no bilateral investment protection agreements, and is not a member of any free trade associations. Foreign labor comprises a large proportion of Palau's labor force.

U.S. citizens are exempt from the Palau's normal resident visa requirements. A visa is not required for U.S. citizens visiting Palau for one year or less, provided the visitor otherwise complies with applicable regulations.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The government actively seeks foreign direct investment. However, the 2011 Foreign Investment Regulations detail a significant number of restricted and semi-restricted sectors. There are no specific financial incentives extended to foreign investors.

Other Investment Policy Reviews

The government has not undertaken any investment policy review in the last three years.

Laws/Regulations of Foreign Direct Investment

The 1991 Foreign Investment Act provides the approval-process guidance for foreign investment. In late 2010 the Government of Palau revised its implementing regulations, changing several key requirements in a bid to encourage more foreign investment. A broader reform of the investment law stalled in Palau's bicameral National Congress, or Olbiil Era Kelulau (OEK). The new "Regulations Implementing the Foreign Investment Act, 28 Pnc Section 101 et seq," were signed by President Johnson Toribiong on August 1, 2010, and went into effect on November 1, 2010.

The 2011 Foreign Investment Regulations detail the significant number of restricted and semi-restricted sectors. There are no specific financial incentives extended to foreign investors.

According to Palauan law, the following businesses are solely reserved for Palauan citizens:

"(i) wholesale or retail sale of goods; (ii) all land transportation including bus services, taxi services and car rentals; (iii) tour guides, fishing guides, diving guides and any other form of water transportation services; (iv) travel and tour agencies; and (v) commercial fishing for other than highly migratory species"

While all of the businesses above are officially closed to foreign investment, there is a prevalent use of partnership companies in several categories, in which the foreign investor owns less than fifty percent. The retail sector, as well as travel- and tour-related businesses, currently has numerous foreign investors via such partnership companies.

Industrial Promotion

There are no sector-specific programs to attract foreign investment.

Limits on Foreign Control

The 2011 Foreign Investment Regulations detail the significant number of restricted and semi-restricted sectors. There are no specific financial incentives extended to foreign investors.

The following businesses are reserved solely for Palauan citizens:

“(i) wholesale or retail sale of goods; (ii) all land transportation including bus services, taxi services and car rentals; (iii) tour guides, fishing guides, diving guides and any other form of water transportation services; (iv) travel and tour agencies; and (v) commercial fishing for other than highly migratory species”

While all of the businesses above are officially closed to foreign investment, there is a prevalent use of partnership companies in several categories, in which the foreign investor owns less than fifty percent. The retail sector, as well as travel- and tour-related businesses, currently has numerous foreign investors via such partnership companies.

Regulatory changes that occurred in 2010 created a new category of “semi-restricted” sectors. These sectors had been closed to foreign investors from the passage of the 1991 Foreign Investment Act through October 2010. Now, these formerly-restricted businesses can include foreign ownership, as long as a Palauan citizen also has an ownership interest. There are no minimum or maximum requirements for percentage ownership for the foreign investor, as long as the monetary and/or Palauan-employment minimums for all foreign investments are met (as discussed below). These semi-restricted businesses are as follows:

- i. handicraft and gift shops;
- ii. bakeries;
- iii. bar services;
- iv. operations [selling] products being produced by wholly Palauan-owned manufacturing enterprise;
- v. equipment rentals for both land and water within the Republic, including equipment for purpose of tourism; and
- vi. any such other businesses, as the Foreign Investment Board may determine

Sectors not listed as either closed or semi-restricted are presumed to be open for foreign investment. The Foreign Investment Board may, however, amend the semi-restricted sector list for “any such other businesses as the Board may determine.”

Privatization Program

Palau has no on-going privatization program.

Screening of FDI

The Foreign Investment Board must approve all foreign direct investment. In addition to the sector in which the investment will flow, the Board requires a statement of level of investment (in U.S. dollar amounts), the length of time the investment will be in Palau, the nationality of the investors, and the percent ownership of each investor. The Board sometimes requests additional documentation from investors if it has questions about the details of the investment. In general, the Board makes decisions in a timely manner.

Competition Law

The Foreign Investment Board would review transactions for any competition-related concerns.

Investment Trends

Beginning in the second half of 2014, People’s Republic of China (PRC) investors showed a heightened interest in establishing businesses in Palau to serve the rapidly growing numbers of PRC tourists. The sudden inflow of PRC investment has increased property values and competition for existing business locations.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	N/A	transparency.org/cpi2014/results
World Bank’s Doing Business Report “Ease of Doing Business”	2015	113 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	N/A	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 10,970	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Other than best practices to review suspicious money transfers (e.g. money laundering), there are no restrictions on converting or transferring funds associated with an investment. Palau’s economy uses the U.S. dollar, so there are no issues in obtaining U.S. currency.

Remittance Policies

Palau collects a four percent remittance tax on money sent electronically out of Palau, for example, by Western Union, but this does not apply to money deposited in any of the three FDIC insured banks in Palau that is later withdrawn outside of Palau.

3. Expropriation and Compensation

The government of Palau has not demonstrated property-expropriation actions. The Palauan constitution provides for the right of the government to condemn land for national interest (“eminent domain”). There are no reported notable property-expropriation cases.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Palau has civil law based court system, which can be used to enforce contracts. Palau has a specialized Land Court for disputes arising from conflicting claims of land ownership. The Judiciary is independent from the Executive branch.

Bankruptcy

Palau has no bankruptcy law.

Investment Disputes

There are no ongoing investment disputes involving the Government of Palau and foreign investors. There is currently no official “dispute resolution” procedure, apart from civil suits and other legal action. However, trained and licensed arbitrators exist.

International Arbitration

Not applicable/information not available.

ICSID Convention and New York Convention

Palau is not a member of the International Center for Settlement of Investment Disputes (ICSID).

Duration of Dispute Resolution

Land disputes can take years to settle. Most other commercial disputes can be settled in months.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Palau is not a member of the WTO.

Investment Incentives

The Government of Palau does not offer incentives to domestic or foreign investors. Businesses in Palau must pay a straight 3 percent duty on all imported items, with no exemptions; duties are higher for alcohol and tobacco. There are no taxes on exports. Apart from two small Free Trade Zones located outside Koror, there are no “tax holidays” or other incentives offered to investors.

Research and Development

Not applicable.

Performance Requirements

The Government of Palau does not apply performance requirements to domestic or foreign investors, though certain occupations, such as boat driver, must be filled by Palauans.

Per the reciprocity arrangements of the Compact of Free Association, U.S. citizens are exempt from the Government of Palau's normal resident visa requirements. A visa is not required for U.S. citizens visiting Palau for one year or less, provided the visitor otherwise complies with applicable regulations, for example, on employment.

Data Storage

Palau has no policy forcing foreign investors to use domestic content in goods or technology, for foreign IT providers to turn over source code, provide access to surveillance backdoors into hardware and software, or turn over keys for encryption.

6. Right to Private Ownership and Establishment

Other than the foreign-ownership restrictions for certain business sectors, there are no restrictions on private entities to engage in all forms of remunerative activity.

7. Protection of Property Rights

Real Property

Establishing secure land title may be complicated due to the complexity of the traditional land ownership system and occasional over-lapping claims. Banks offer mortgages, and the recording system is reliable. The Land Court has primary responsibility to adjudicate disputes over land ownership.

Intellectual Property Rights

Palau is not a member of the World Intellectual Property Organization (WIPO), the WTO, or any other organization or convention protecting intellectual property rights. Pirated DVDs imported from off-island are readily available. Palauan copyright law explicitly covers materials in which:

- 1) one or more of the authors is or was on the date of first publication a national or resident of the United Nations Trust Territory of the Pacific Islands, Palau District, or the Republic of Palau;
- 2) the work is or was initially published in the Republic of Palau;
- 3) the work is or was initially published in another country and also published in the Republic of Palau within 30 days thereafter, irrespective of the nationality or residence of the author;
- 4) the work is an audiovisual work, the author of which is a resident of Palau; or

5) the work is an architectural work erected in the Republic of Palau or is an artistic work incorporated into a building or other structure located in Palau.

Any copyright owner who is the bona fide owner of a copyright or the owner of a transferred copyright shall be subject to the same protections provided above, provided he or she registers the work or works with the Office of the Attorney General and pays the requisite fee. The Attorney General shall charge a fee of USD 200.00 per work registered, or USD 2,000.00 for ten or more works registered to the same owner. For persons or businesses registering 10 or more works, additional works may be added at no charge during the same calendar year.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Resources for Rights Holders

Embassy Contact

Thomas E. Daley
Mission Deputy
+680-587-2920
daleyte@state.gov

Country Resources

For a list of lawyers in Palau, please see: <http://palau.usembassy.gov/attorney.html>

8. Transparency of the Regulatory System

Regulatory and accounting systems are generally transparent and consistent with international norms. Proposed new regulations must go through a period of public comment before being adopted. Businesspeople in Palau do not report specific regulatory discrimination against foreign investors.

9. Efficient Capital Markets and Portfolio Investment

Not applicable.

Money and Banking System, Hostile Takeovers

Palau has a strong banking sector with three FDIC-insured U.S. banks as the foundation: the Bank of Hawaii, the Bank of the Pacific, and the Bank of Guam. The IMF has also praised Palau's healthy and efficient banking sector. Total assets of these banks exceed USD 125 million. There is no stock exchange in Palau.

10. Competition from State-Owned Enterprises

The state-owned enterprises in Palau include the utilities sector, telecommunications, and the national bank. Because of growing pressure on infrastructure and encouragement from the Asian Development Bank (ADB) and others, some of these companies may be wholly or partially privatized in the future. There is a state-managed giant clam farming company, but this is not a barrier to private clam-farming initiatives.

OECD Guidelines on Corporate Governance of SOEs

Not applicable.

Sovereign Wealth Funds

Palau does not have a Sovereign Wealth Fund.

11. Corporate Social Responsibility

Many businesses provide corporate donations to environmental and social Non-Governmental Organizations (NGOs), and /or engage in environmental corporate social responsibility programs to preserve Palau's environment and wildlife. Most CSR activities are conducted via donation, partly attributable to the available tax deduction of up to 10 percent of a company's Gross Revenue for donations to non-profit organizations. Apart from this tax incentive, there are few laws or regulations pertaining to CSR.

OECD Guidelines for Multinational Enterprises

Not applicable.

12. Political Violence

Palau experienced some political violence in the 1980's and early 1990's, but has become increasingly stable and peaceful since then. The World Bank placed Palau in the 98th percentile in its 2011 rating of country political stability.

13. Corruption

The Code of Ethics Act spells out what is illegal for government officials, and the Public Auditor and the Special Prosecutor hold them accountable for failure to observe the law.

Palau is currently the only one of the Micronesian nations to employ a Special Prosecutor. Special Prosecutors have successfully prosecuted a number of elected Federal and State officials, recovering substantial sums of money. Most corruption (proved and alleged) involves improper use of government funds or property, and/or fraudulent collaborations of various kinds. There have been several high profile prosecutions/resignations by public officials related to violations of Palau's government ethics law. None involved alleged abuse targeting foreign investors. Government extortion or semi-extortion of private companies is virtually unknown.

Local media often reports on alleged corruption cases, and serves as an informal watchdog. Palau does not appear in Transparency International's Index of Corruption. In a 2004 country report, however, Transparency International praised the fairness and professionalism of Palau's judiciary. There are no formal anti-corruption NGOs or international watchdogs based in Palau.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Palau acceded to the United Nations Convention against Corruption (UNCAC) in March, 2009. It has been a member of the Asian Pacific Group on Money Laundering (APGML) since 2002.

Palau is not a member of the OECD Convention on Combating Bribery.

Resources to Report Corruption

Allegations of corruption can be reported to the Special Prosecutor through the Attorney General's Office:

John Bradley
Attorney General
+680-488-2481

14. Bilateral Investment Agreements

Palau has no bilateral investment protection agreements, and is not a member of any free trade associations. Palau is currently negotiating with both the Philippines on a bilateral cooperation agreement and the European Union on a free trade and economic agreement.

Bilateral Taxation Treaties

Palau does not have a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) has had an investment incentive agreement with Palau since March 15, 2002. Palau is a member of the Multilateral Investment Guarantee Agency of the World Bank Group.

16. Labor

With an estimated total of 13,000 Palauan nationals in country (including non-working individuals, such as children and elderly) and 7,000 estimated foreign workers, foreign labor comprises a large proportion of Palau's labor force. In July 2011, the U.S. Interior Department provided a grant to Palau for development of a comprehensive Labor Code.

In October 2013, Palau established the minimum wage for workers at USD 2.75/hour with USD 0.25 increases slated for future years until it reaches USD 3.50/hour in 2016, though certain

categories of workers are exempted from the minimum wage. Business owners must pay a tax of USD 500 per foreign employee per year.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

The Free Trade Zone Act of 2003 established the Ngardmau Free Trade Zone Authority. Another “Tax Free Zone” was established in the state of Melekeok, covering a one mile radius around the Federal capitol building. These zones, still largely undeveloped, offer potential investors tax and other incentives, but ownership and labor rules are the same as elsewhere in Palau.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2013	247.0	2013	245.5	CIA World Factbook estimate
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	N/A		2013	-36	http://bea.gov/international/factsheet/factsheet.cfm?Area=659
Host country’s FDI in the United States (\$M USD, stock positions)	N/A		2013	<1	http://bea.gov/international/factsheet/factsheet.cfm?Area=659
Total inbound stock of FDI as % host GDP	N/A		N/A		

*Republic of Palau 2013 Statistical Yearbook

Table 3: Sources and Destination of FDI

IMF Coordinated Direct Investment Survey data are not available for Palau.

Table 4: Sources of Portfolio Investment

IMF Coordinated Portfolio Investment Survey data are not available for Palau.

19. Contact for More Information

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usembassykoror@palaunet.com