

# MANAGING A COMPANY IN COLOMBIA

## Summary of Local Obligations

We are pleased to have assisted you with the registration of your company in Colombia!

This document includes a general summary of local regulatory obligations. Please review this summary carefully as any violation of these obligations may result in penalties and additional costs for your company. And, as always, if you have any questions about these obligations and/or the underlying regulations feel free to reach out to us at any time. We would be more than happy to answer any of your questions!

### EMPLOYMENT OBLIGATIONS

If your company hires employees you will need to abide by the following obligations:

#### 1. Severance Assistance (“Cesantías”)

##### a. Underlying Regulations

- Código Sustantivo del Trabajo: Art 249 a 258.
- Ley 50 de 1990.
- Decreto 2076 de 1967.

##### b. Obligations

- Companies are required to pay the equivalent of one monthly salary for each full year of employment.

##### c. Timing

- Calculated as of the end of the calendar year or at the end/termination of employment agreement.

- Payment must be made no later than February 14 of the following year.

d. Observations

- Pro rata payments apply if employee works only part of the year.
- Payment is made directly into a government fund selected by the employee (though can be paid directly to an employee in certain circumstances).

**2. Interest on Severance Assistance (“Intereses Sobre Cesantías”)**

a. Underlying Regulations

- Ley 52 de 1975.
- Decreto Reglamentario 116 de 1976.

b. Obligations

- Companies are required to pay interest of 12% on the “Cesantías” due to each employee on an annual basis.

c. Timing

- Calculated as of the end of the calendar year or at the end/termination of employment agreement.
- Payment must be made no later than January 31 of the following year or on date employment agreement ends/is terminated.

d. Observations

- Pro rata payments apply if employee works only part of the year.
- Payment is made directly to employee.

**3. Bonus (“Prima”)**

a. Underlying Regulations

- Código Sustantivo del Trabajo: Art 306 a 308.

b. Obligations

- Companies are required to pay the equivalent of one monthly salary for each full year of employment.

c. Timing

- Calculated as of the end of the calendar year or at the end/termination of employment agreement.
- Payment is made biannually (first 20 days of June and first 20 days of December).

d. Observations

- Pro rata payments apply if employee works only part of the year.
- Payment is made directly to Employee.

**4. Vacation**

a. Underlying Regulations

- Código Sustantivo del Trabajo: Art 186 a 192.

b. Obligations

- Companies are required to grant 15 business days of paid vacation per year for any employee that has worked at least 1 year.

c. Timing

- Granted every year employee works for the company.

d. Observations

- Companies and employee can decide to have the Company pay employee up to half of their vacation days in order to shorten vacations.
- Companies cannot pay out the entirety of vacation days to employee.
- Company may advance vacation days to employee.

## **5. Transportation Assistance (“Auxilio de Transporte”)**

### a. Underlying Regulations

- Ley 15 de 1959.
- Decreto 1258 de 1959.

### b. Obligations

- Companies are required to pay transportation costs for certain qualified employees.

### c. Timing

- Paid monthly.

### d. Observations

- Applicable to employees earning at least twice the minimum legal salary.

## **6. Clothing “Gift” Assistance (“Suministro de Calzado y Vestido de Labor”)**

### a. Underlying Regulations

- Código Sustantivo del Trabajo: Art 230 a 235.
- Ley 11 de 1984.

### b. Obligations

- Companies are required to “gift” certain clothing items to qualified employees including a pair of shoes and work-related clothing.

### c. Timing

- Gift is provided three times a year (April 30, August 31, December 20).

### d. Observations

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- Applies to employees earning at least twice the minimum legal salary who have worked at least 3 months with the Company.
  - Companies may not pay the value of the “gift” to employees.
  - “Gift” is made directly to employee.

## **7. Social Security Payment (Health)**

### a. Underlying Regulations

- Ley 100 de 1993.
- Ley 1122 de 2007.

### b. Obligations

- Corresponds to 12.5% on the salary earned for the employee. Employee contributes 4% and the companies contribute 8.5%.

### c. Timing

- Paid monthly.

## **8. Social Security Payment (Pensions)**

### a. Underlying Regulations

- Ley 797 de 2003.

### b. Obligations

- Corresponds to 16% of salary. Employee contributes 4% and companies contribute 12%.

### c. Timing

- Paid monthly.

## **9. Social Security (Occupational Risks)**

### a. Underlying Regulations

- Ley 1562 de 2012.

b. Obligations

- Depends on the risks of the company. The contribution range varies from 0.348% to 8.7%.

c. Timing

- Paid monthly.

## ACCOUNTING OBLIGATIONS

Below are select accounting obligations your company will be required to abide by, depending on the type of business entity you operate:

### **1. Obligations Applicable to All Entities**

- a. Official books must be maintained in accordance with commercial and tax laws.

### **2. Obligations Applicable to S.A.s (“Sociedades Anonimas”) and to S.A.S.s (“Sociedades Anonimas Simplificadas”)**

- a. If entity is under the direct control of the “superintendencia” (the equivalent of the Securities and Exchange Commission for business entities in the United States) the entity must submit annual balance sheets and pay a supervisory fee of 0.05% of total assets.

### **3. Obligations Applicable to S.A.s Only**

- a. Entity must employ a statutory auditor to carry out internal control functions, including reconciling monthly bank statements and authorizing company balance sheets.

### **4. Obligations Applicable to S.A.S.s Only**

- a. An S.A.S must appoint a statutory auditor if its assets or income exceed specified limits established by law.

## TAX OBLIGATIONS

Below is a list of typical taxes that your company may be required to pay in Colombia:

1. **Value Added Tax (“IVA”)**: IVA is imposed on imports as well as the sale of goods and the provision of services. Prior to 2017, the standard IVA rate was 16%, with lower rates of 5% and 0% applicable in certain cases. Certain goods and services are exempt or zero-rated. Since January 2017 IVA is now 19%. IVA generally is generally paid every two or four months, depending on the company’s gross income the previous year. Companies are required to register with the Colombian tax authorities, which will assign them a Unique Tax Register number (“RUT”). The RUT is the company’s ID for tax purposes.
2. **Income Tax for Equality (“CREE”)**: CREE was a national tax on companies that helped to pay for certain employee benefit plans and employment generation programs. The CREE was assessed on company profits. Following the 2016 tax reform process, this tax was eliminated and replaced with an automatic withholding income tax structure.
3. **Industry and Commerce Tax (“ICA”)**: Local tax that is imposed on revenue generated from industrial, commercial or service activities carried out in the local municipality. Total payment due varies based on location of business and may be assessed bimonthly or annually.
4. **Tax Income Surcharge**: Applies to companies with revenues exceeding COP\$800,000,000. Total tax due is 5% for 2017 and 3% for 2018.
5. **Withholding Tax**: Your company may be required to withhold payments on any number of tax obligations. The most common withholding tax is for professional fees and services rendered. It applies from 4 UVT (For 2016 UVT is \$29,752) and ranges from 4% and 6% for services and 10% and 11% for professional fees.



6. **Business License:** You will need to renew your business license with your local Chamber of Commerce on an annual basis but no later than March 31 of every year.

## A SPECIAL REMINDER FOR HOLDERS OF TP7 COMPANY OWNER VISAS

We want to remind our clients who are in the process of applying for or who will be renewing their TP7 Company Owner visas of the following obligations:

1. **Capitalization of Company:** You will need to capitalize your company for a value of at least 100 times the local minimum salary (which as of 2017 is approximately COP\$74,000,000). This investment may be made in cash, tangible property and/or intangible assets. If you need assistance organizing this capitalization please let us know in advance of your visa application.
2. **Company Activity:** You will want to make sure that you are, in fact, “doing business” in Colombia. If your company remains dormant (no bank account activity, no management of accounting obligations, no invoicing, failure to file taxes, etc..) you may not be approved for a TP7 Company Owner visa in the future even if you were previously received approval.

In order to ensure that you do not experience any difficulties applying for a TP7 Company Owner visa in the future we recommend the following:

- Make sure you use your company for its intended business purpose on a regular basis (invoice regularly, if applicable pay employee obligations, book profits accurately on the company books, etc...).
- Make sure you use your company bank account for all company-related transactions (pay tax obligations, third party providers, vendors, employees, etc... directly from your business bank account).
- Make sure that your company bank account can show business transactions over the prior 6 months at the time that you apply for your TP7 visa.
- Make sure that you keep your company current with all standard regulatory obligations (filing taxes on time; renewing business license; paying withholding taxes, etc...).

Much of the above can be managed by your current accountant so we suggest that you discuss this issue with them directly. If you don't have a local accountant let us know and we can provide you with a formal quote.