

PAYMENT OF EMPLOYEES' PROFIT-SHARING IN 2022: WHAT DO YOU NEED TO KNOW?



The payment of employees' profit-sharing is an employment benefit regulated under Peruvian labor laws, which consists in deducting a specific percentage of the business income of a company to directly distribute it among the employees recorded on its payroll.

Given that we are close to the deadline to file the Annual Income Tax Return and, consequently, to pay the employee's profit-sharing, here are some important aspects to consider:

A) WHO BENEFITS FROM THIS PAYMENT?

The employees who are subject to the Labor Regime of the Private Sector, and whose employer performs activities that generate business income. However, said employer must have at least an annual average of 21 employees on the payroll.

B) HOW IS THE AMOUNT TO BE DISTRIBUTED CALCULATED?

It is calculated based on the taxable income balance of the taxable year which is obtained after offsetting all losses from prior years.

The percentage to be distributed is determined by the main economic activity developed by each employer and is applied to the annual income before taxes. Said percentages are detailed below:

ECONOMIC ACTIVITY	PERCENTAGE
Fishing companies	10%
Agricultural companies	5%
Telecommunication companies	10%
Industrial companies	10%
Mining companies	8%
Retail and wholesale companies, restaurants	8%
Companies performing other activities	5%

The corresponding percentage will be distributed as follows:

- ▶ 50% based on the number of days worked by each employee.
- ▶ 50% proportionally based on the salaries earned by each employee.

Thus, the higher the salary amount and the number of days worked, the higher the benefit to which each employee will be entitled.

C) WHAT DAYS ARE CONSIDERED IN THE CALCULATION?

The following days will be considered as "days worked":

- ▶ The days when employees completed their regular work shifts.
- ▶ The days absent considered as days attended for all purposes, under a legal mandate.
- ▶ The pre-natal and post-natal days used by female employees.

D) WHICH IS THE SALARY AMOUNT CONSIDERED IN THE CALCULATION?

All freely-available salaries paid to employees whether in cash or in kind during the fiscal year.

E) IS THERE AN ESTABLISHED LIMIT?

The amount to be distributed will have a cap of 18 monthly salaries. In this regard, it will be necessary to consider the monthly average of the salaries earned by each employee during the prior fiscal year.

F) WHEN ARE PROFITS DISTRIBUTED AND PAID?

Profits must be distributed within thirty (30) calendar days of the deadline to file the Annual Income Tax Return, in accordance with the schedule approved by the Peruvian Tax Authority (SUNAT).



G) WHEN IS THE DEADLINE TO FILE THE ANNUAL INCOME TAX RETURN FOR YEAR 2021?

The deadlines for filing the Annual Income Tax Return for year 2021 are determined based on the last digit of the taxpayer's Tax Identification Number (RUC number), as detailed below:

LAST DIGIT OF RUC NUMBER	DEADLINE
0	March 25, 2022
1	March 28, 2022
2	March 29, 2022
3	March 30, 2022
4	March 31, 2022
5	April 1, 2022
6	April 4, 2022
7	April 5, 2022
8	April 6, 2022
9	April 7, 2022
Good Taxpayers and individuals not required to register with the RUC	April 8, 2022

H) WILL AN EMPLOYEE SUBJECT TO AN UNPAID INTERRUPTION OF DUTIES BE ENTITLED TO PROFIT-SHARING?

The payment of employees' profit-sharing is an employment benefit granted to all the employees subject to the Labor Regime of the Private Sector and is not subject to whether such employees are actually working or not.

Therefore, this benefit must be paid to those employees who were subject to an unpaid interruption of duties, a measure which was in effect until October 2, 2021.

It is worth remembering that, for calculation and distribution purposes, it will be necessary to consider, among other items, the number of days actually worked during the prior fiscal year.

I) IS AN EMPLOYEE NOT CURRENTLY WORKING AT THE COMPANY ENTITLED TO PROFIT-SHARING?

In case an employee has ceased its employment relationship with their employer prior to the distribution of profits, such employee will be entitled to receive an amount calculated based on the days worked and the salaries earned during the prior year.

Such payment must be made as of the date when profits must be distributed, upon prior request for collection from the former employee.

J) ARE THERE ANY PENALTIES FOR THE FAILURE TO DISTRIBUTE PROFITS?

The failure to comply with the provisions referred to the payment of employees' profit-sharing may give rise to infractions classified as minor or serious, which may be subject to penalties ranging from 0.26 to 26.12 tax units (1 tax unit is equivalent to PEN 4,600 or approx. USD 1,243), based on the number of affected employees.

KEY INFORMATION

- ▶ Companies may deduct the profit-sharing amount for year 2021 as an "expense" if this benefit is distributed among employees before filing the Annual Income Tax Return corresponding to such year.



FOR MORE INFORMATION:



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