GUIDE TO THE MAIN EMPLOYMENT BENEFITS IN PERU

Aspects to be considered for calculation and correct payment to employees

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BDO

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Carina is a licensed attorney from the Pontificia Universidad Catolica del Peru, and is a member of the Lima Bar Association. She has 12 years of experience in the corporate world advising diverse companies. She initially specialized in Employment Law, Social Security Law and Immigration Law, and she later specialized in Corporate Law. Among her different specializations during her professional development, she earned a Specialist Diploma in Employment Law from the Executive Specialization Program of ESAN University. In addition, she has consolidated her knowledge of the English language by completing the International Legal English course at the Language Institute of the Pontificia Universidad Catolica del Peru. She is currently a candidate of the Master of Corporate Law at the Pontificia Universidad Catolica del Peru.

INTRODUCTION

This document aims to provide the guidelines and general standards which all employers must take into consideration when calculating the employment benefits they are required to pay to their employees.

Below you will find information regarding the amounts, requirements, payment frequency, administrative infractions, as well as other aspects related to the following employment benefits:

- Legal Bonuses
- Compensation for Years of Services
- Annual Vacation Leave
- Family Allowance
- "Vida Ley" Life Insurance
- Employees' Profit-Sharing

I. LEGAL BONUSES

A. General Considerations

Legal bonuses are currently regulated by Law N° 27735, and its Regulations, Supreme Decree N° 005-2002-TR.

Such regulations stipulate the payment of 2 legal bonuses per year for Peruvian Independence and Christmas to all employees subject to the labor regime of private entities.

This right is granted irrespective of the type of employment contract or the years of services of such employees (i.e., hired under either open-ended contracts, conditional employment contracts, or part-time contracts).

B. Regular Bonuses

1. Requirements

To receive a regular bonus, employees must have been working for at least 1 month before the month in which the referred bonus is granted.

In addition, employees should have been actually working during the first 15 days of July or December of each year, respectively.

2. Years of Services

Regular bonuses are paid based on the employees' actual time worked. Consequently, each day deemed as not actually worked is deducted as 1/30 of the amount to be paid to the employees.

As an exception, the following periods are considered as actual time worked:

- Paid vacation leave.
- Paid leave of absence.
- Leaves involving the payment of subsidies.
- Days considered as days worked for all legal purposes.

3. Bonus Amount

Once the requirements above are met, and considering the applicable time worked, regular bonuses may be paid in any of the 2 ways described below:

- Comprehensive regular bonus: Once the corresponding requirements are met, the regular bonuses to be paid to employees are equivalent to 1 full salary, provided that such employees have been working during the whole semester (January – June, July – December).
- Proportional regular bonus: If an employee has worked for less than a semester, their regular bonus is reduced accordingly. To this end, such employee must have been working for at least 1 month during the referred semester.

4. Applicable Remuneration Amount

In respect of the remuneration amount to be used to calculate the legal bonuses corresponding to Peruvian Independence and Christmas, Law № 27735 sets forth that employers must use the remuneration amount in effect as of the date when the such benefits must be paid; i.e., on the first 15 days of July or December. However, the regulations of such law stipulate that the remuneration amount to be used is the amount the employee is earning as of June 30 and November 30, with respect to Peruvian Independence or Christmas bonuses, respectively.

In this sense, the applicable remuneration amount shall be equivalent to the base salary and all the salary items paid to employees, whether in cash or in kind, in consideration of their services.

In the case of variable salaries, the applicable remuneration will be equivalent to the average of the salaries paid to each employee during the corresponding semester, even if such salaries have not been paid more than 3 times during such period.

On the other hand, in the case of supplemental salaries considered to be ambiguous or variable, these must be included in the calculation of the applicable remuneration amount, provided that such salaries have been paid at least 3 times during the respective 6-month period. Thus, 1/6 of the total sum of such salaries must be included in the amount to be paid.

5. Payment Frequency

Peruvian Independence and Christmas bonuses must be paid during the first 15 days of July and December, respectively. Such payment frequency may not be altered by any of the parties to the employment relationship.

C. Accrued Bonuses

1. Requirements

The right to receive any accrued bonus is acquired upon the termination of the employment relationship, provided that the employees involved have been working for at least 1 month during the corresponding semester.

2. Accrued Bonus Amount

The amount of the accrued bonus is calculated in proportion to the number of complete calendar months worked during the period in which the termination of employment took place.

3. Applicable Remuneration Amount

The remuneration amount to be used to calculate accrued bonuses is equivalent to the employee's remuneration in effect as of the month immediately preceding the termination of the employment relationship.

4. Payment Frequency

Accrued bonuses must be paid together with all the corresponding employment benefits within the 48 hours following the termination of employment.

D. Non-Taxation of Legal Bonuses and Extraordinary Bonuses

Law N°30334 and its regulations, Supreme Decree N° 012-2016-TR, establish that Peruvian Independence and Christmas bonuses (whether comprehensive or proportional) are exempt from any contribution or deduction. However, such exemption affects neither income taxes nor deductions authorized by employees, or court order deductions.

The referred regulations further state that the contributions to the

National Healthcare System (EsSalud) to be paid by the employer in connection with such bonuses must be paid to employees as an "Extraordinary Bonus", together with any regular or accrued bonus to be paid.

In the case of employees affiliated to a Private Healthcare Entity (EPS in Spanish), the referred Extraordinary Bonus is equivalent to 6.75% of the contribution to EsSalud which the employer would have been required to pay in connection with such bonuses.

E. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to legal bonuses contained in relevant legislation may be considered as a minor or serious infraction, which may be sanctioned by the National Superintendency of Labor Inspections (hereinafter, "SUNAFIL") with penalties ranging between 0.23 tax units (S/ 954.50) and 22.50 tax units (S/ 93,375.00), according to the number of affected employees*.

II. COMPENSATION FOR YEARS OF SERVICES

A. General Considerations

The Compensation for Years of Services ("Compensación por Tiempo de Servicios" or CTS in Spanish) is an employment benefit granted to employees subject to the regular labor regime of private entities in order to prevent the contingencies which may arise from the termination of their employment. The CTS, as well as its interests, deposits, transfers and withdrawals, are exempt from current or future taxes, or from contributions to the National Healthcare and Pension Regimes.

This benefit is regulated by the Unique Orderly Text of Legislative Decree N° 650 - Law on the Compensation for Years of Services, and its Regulations, Supreme Decree N° 004-97-TR.

It is important to point out that the CTS serves as "unemployment insurance", as it is considered as income which aims to protect all employees from unemployment. Therefore, such compensation should not be used while individuals are still employed.

B. Requirements

The right to receive this benefit is granted to employees subject to the regular labor regime of private entities who, in average, have worked at least a daily 4-hour shift and at least 1 month during the corresponding semester.

C. CTS Amount

The CTS amount is equivalent to as many twelfths of the employees' remuneration as the number of complete months which such employees may have worked during the corresponding semester (November - April, May – October). Thus, if the employees have worked during the entire semester, the employer will be required to deposit half of their remuneration and, in case the employees did not work the complete semester, the deposit will be made up of thirtieths according to the portions of the months worked.

It is worth pointing out that the remuneration above mentioned shall be that in effect as of April and October, respectively.

D. Years of Services

The calculation of the CTS amount must take into consideration the time actually worked by the employees in Peruvian territory or abroad, while such employees maintain a valid employment relationship with the employer who hired them in Peru.

**Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.*

Only the days actually worked are included in such calculation. Any unjustified absence may be deducted from the total time worked, and each of those days of absence will be equivalent to 1/30 of such total.

As an exception, the following scenarios are considered as days actually worked in the calculation of the CTS amount:

- Absences caused by occupational accidents or illnesses, or by duly proven illnesses, are considered as days actually worked in all cases for up to 60 days per year, which are calculated per annual period comprised between November 1 of one year and October 31 of the subsequent year.
- Days on maternity leave.
- Days incurred during a suspension of the employment relationship, where the employer does not cease the payment of the employee's remuneration.
- Days on strike, provided that such strike has not been declared unlawful or illegal.
- Days accruing remuneration during a termination process, whether for restitution or invalidity.

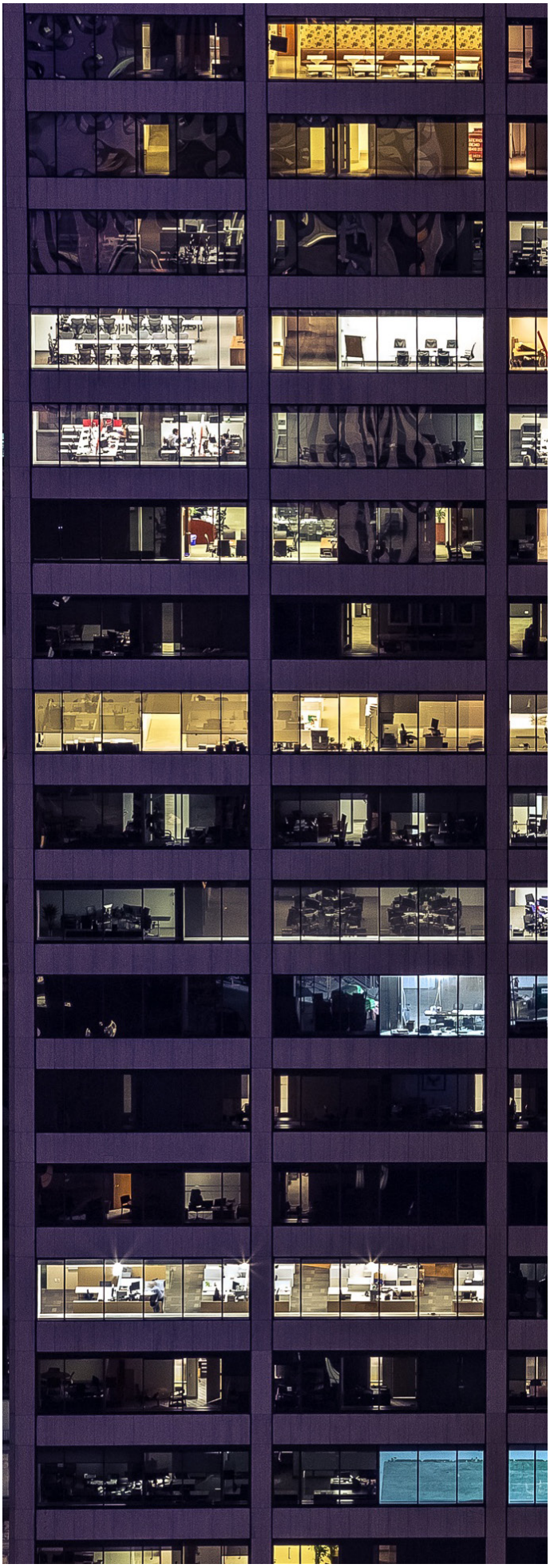
E. Applicable Remuneration Amount

The calculation of the CTS amount includes the employees' base salary as well as all the sums regularly paid to such employees (whether in cash or in kind), provided that those sums are freely available.

The calculation also includes the value of the employees' main meals (breakfast, lunch, and supper or dinner) provided in cash or in kind by the employer. It is worth pointing out that the snacks not considered as main meals are not considered as remuneration for any legal purpose.

In addition, the Unique Orderly Text of the Law on CTS provides a list of items considered as non-salary items for the calculation of CTS, as detailed below:

- Extraordinary bonuses.
- Any form of share of the employer's profits.
- Cost or value of the employees' working conditions.
- Christmas gift basket or similar.
- The amount given to cover transportation expenses, provided that it is given with the purpose of attending the workplace, and if it reasonably covers the respective transportation. This amount includes any fixed amount granted by the employer under an individual or collective agreement, provided that it meets the requirements above mentioned.
- Education allowance or bonus, provided that it is a reasonable amount and is appropriately supported.
- Allowances or bonuses granted for the employees' birthday, marriage, childbirth, death and those of similar nature. This is also applicable to allowances granted for specific celebrations, provided that these result from a collective agreement.
- Goods produced by the employer himself and provided to employees in a reasonable quantity for the consumption of the employees themselves and their families.
- All sums granted to employees to allow them to fully perform their duties or as a consequence of their duties, such as those to cover transportation and travel expenses, entertainment expenses, wardrobe expenses and, in general, any sum used to reasonably fulfill such purposes and which does not represent an economic benefit or advantage for such employees.
- Meals directly provided by the employer as working conditions, as these are considered to be necessary for the rendering of services, as well as meals indirectly granted in accordance with its respective regulations or any court order.



F. Payment Frequency

Employer must deposit the CTS twice a year into the bank account opened at the financial institution chosen by each employee, within the first 15 calendar days of May and November.

G. CTS Statement

Within the 5 days following the deposit of the CTS, the employer must provide each employee with a CTS statement duly signed by the employer's legal representative, and each employee must in turn sign an acknowledgement of receipt.

H. Free Availability of CTS Deposits

In order to reactivate the economy and promote consumption, some regulations have been enacted over time entitling employees to dispose of a part of their accumulated CTS deposits.

Thus, in accordance with Law N° 30334 and its regulations, Supreme Decree N° 012-2016-TR, employees can freely and permanently dispose of 100% of the amount exceeding the amount of 4 gross salaries of the CTS deposits made at financial institutions and accumulated as of the date of availability.

I. Notification to Financial Entities in Charge of CTS

Only in the cases where an employee decides to dispose of their CTS deposits, the employer will be required to notify the respective financial entities regarding the amount which must remain restricted (unavailable amount); i.e., the amount equivalent to 4 times their last gross monthly salary. Such notification must be sent within the 3 days following the employee's request.

J. CTS Payment upon Termination of Employment

1. Direct Payment of Accrued CTS

Any CTS amount accrued as of the date of termination of the employment relationship for a period of less than a semester must be directly paid by the employer as "Accrued CTS", within the 48 hours following the termination of employment, and shall be considered as a final payment.

2. Deduction of Ex Gratia Payments

If upon termination of employment or after such event, an employee receives an ex gratia payment from their employer in a pure, simple and unconditional manner, such payment may be deducted from any sums which a judicial authority may order the employer to pay as a consequence of a lawsuit filed by such employee to demand the total refund of any amount owed in connection with their employment relationship.

To this end, the employer must issue a document with a true date (e.g., a Statement of Termination Benefits), which must expressly state that the referred sum or pension has been granted in accordance with the Unique Orderly Text of the Law on CTS or the provisions applicable to compensations contained in the Civil Code.

3. Certificate of Termination of Employment

Employers must provide employees with a document certifying the termination of their employment relationship within the 48 hours following said termination.

In case the employer unjustifiably denies, delays, or neglects

the issuance of such certificate or is unable to issue such document, for any reason whatsoever within the prescribed period of time, once the termination has actually taken place, the Administrative Labor Authority, replacing the employer, will issue the certificate required by employees to dispose of their termination benefits.

If an employee does not collect their CTS in possession of the employer, or does not pick up their certificate of termination of employment, both items may be sent through the judiciary.

4. Retention of CTS due to Serious Infraction

If any employee is dismissed as a result of a serious infraction which has caused financial losses to the employer, the latter must instruct the financial institution where the CTS and its interests of the former have been deposited, to retain such amounts, by evidencing the start of legal proceedings for damages.

In this regard, the employer will be required to file the lawsuit for damages within the 30 calendar days following the termination of such employee. Once this period ends, the right to retain such sums will expire and the referred employee will be authorized to freely dispose of its CTS and interests.

If the employer fails to file the referred lawsuit against the employee within the prescribed period, the former shall be required to indemnify the latter for the days such employee was not able to withdraw their CTS, and to issue the corresponding certificate of termination of the employment relationship.

K. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to CTS contained in relevant legislation may be considered as a minor or serious infraction, which may be sanctioned by the SUNAFIL with penalties ranging between 0.23 tax units (S/ 954.50) and 22.50 tax units (S/ 93,375.00), according to the number of affected employees*.

III. ANNUAL VACATION LEAVE

A. General Considerations

The right to an Annual Vacation Leave is regulated by Legislative Decree N° 713 and its Regulations, Supreme Decree N° 012-92-TR. In accordance with such provisions, the employees subject to the labor regime of private companies are entitled to a 30-day annual vacation leave, and to receive a remuneration equivalent to the amount they would have received if they had continued working.

B. Requirements

Any employee will be able to take their vacation leave provided that they have completed 1 year of services (first requirement) and that they have accrued the number of work days required (second requirement) according to their weekly work shift.

The provisions set out in the legislation above are summarized in the following table:

Right to vacation leave	Complete 1 year of services + Accrue required number of work days		
	6-day weekly shift	>	Effective work for 260 days during the period
	5-day weekly shift	>	Effective work for 210 days during the period
	3 or 4-day weekly shift and other scenarios	>	Unjustified absences must not exceed 10 days

For such purposes, the following scenarios are considered as days actually worked:

- A minimum regular 4-hour work shift.
- Time worked during non-working days, irrespective of the number of hours worked.

**Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.*

- Four or more hours of overtime incurred during 1 working day.
- First 60 days of absence due to a common illness, or an occupational accident or illness, per each year of services.
- Days on maternity leave.
- Leaves granted for labor union duties.
- Absences authorized by law, individual or collective agreement or those unilaterally decided by the employer.
- Vacation days corresponding to the previous year.
- Days on strike, provided that such strike has been declared to be admissible or legal.

C. Vacation Pay Amount

Vacation pay is equivalent to the remuneration which employees would have received if they had continued working, and the applicable remuneration amount is that considered for the calculation of the CTS payment.

On the other hand, vacation pay must be given to employees before the start of their scheduled vacation period.

D. Frequency of Annual Vacation Leave

The period in which employees may take their vacation leave must be mutually agreed with the employer, taking into consideration the employer's needs and the employees' own interests. If no agreement is reached, employers may make use of their managerial powers to decide when the employees will be able to take their vacation leave.

E. Division, Accumulation of Reduction of Vacation Time

Once employees have acquired the right to take vacation time, they may do so for a total of 30 consecutive calendar days or, if employees submit a written request or reach an agreement in writing with the employer, such vacation time may be divided, reduced or accumulated.

1. Request to Divide Vacation Time

Employees may request the authorization from their employer to divide their vacation time in periods of no less than 7 calendar days per period. Such request must be submitted by employees in writing.

2. Agreement to Accumulate Vacation Time

Employees may agree with the employer the accumulation of up to 2 consecutive vacation periods, provided that, when 1 uninterrupted year of services has been completed, employees make use of their vacation time for a minimum period of 7 calendar days. As in the preceding case, such agreement must be submitted in writing.

3. Agreement to Reduce Vacation Time

The employees' vacation time may be reduced from 30 calendar days to 15 calendar days, and the remaining 15 calendar days may be compensated. To this end, there must be a written agreement in place between the employee and the employer.

F. Accrued Vacation Time

In case employment is terminated, employers must include the following sums in the termination benefits to be paid to employees:

- Any outstanding amount corresponding to regular vacation time.
- Any outstanding amount corresponding to accrued vacation time resulting from the total of work days not reached during the year.

Such amount must include the months and days actually worked by each employee, and each month and each day worked must be equivalent to 1/12 and 1/30 of the employees' remuneration, respectively.

It is important to point out that the amount corresponding to accrued vacation time may be paid to employees who are able to evidence that they have worked for the same employer for at least 1 month.

G. Vacation Indemnity

1. Definition

If the employees who meet the requirements to take their accrued vacation time do not use it during their employment relationship or during the 12 months after acquiring such right, the employer will be required to pay the following sums, which are named "triple remuneration" or "triple vacation pay":

- 1 salary for the services provided; such sum should have already been paid if the employee has not used their vacation time.
- 1 vacation pay, corresponding to the accrued but unused vacation time.
- 1 vacation indemnity, equivalent to 1 salary for not being able to opportunely use their vacation time. It is important to point out that this payment is not subject to any withholding for contributions or taxes.

2. Special Considerations

The obligation to pay the vacation indemnity arises since the first day of the year following the period in which employees were supposed to make use of their vacation time but they did not. For payment purposes, the existence of a current employment relationship is not a mandatory requirement.

It is important to mention that it is not necessary to pay the referred vacation indemnity to employees who have been terminated during the period in which they could have taken their vacation time, without prejudice to receiving their regular vacation pay.

3. Vacation Time of Managerial Employees

Employers are not required to pay the referred vacation indemnity to its managers or representatives who, being able to decide on this matter, chose not to make use of their vacation time.

H. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to the right to take the annual vacation leave contained in relevant legislation may be considered as a minor, serious or very serious infraction, which may be sanctioned by the SUNAFIL with penalties ranging between 0.23 tax units (S/ 954.50) and 45 tax units (S/ 186,750.00), according to the number of affected employees*.

*Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.

IV. FAMILY ALLOWANCE

A. General Considerations

Family allowance, currently regulated by Law N° 25129 and its Regulations, Supreme Decree N° 035-90-TR, is an employment benefit considered as a salary item which is granted to the employees who have underage children, or children of legal age until the age of 24, provided that such children are pursuing a technical or university degree.

This allowance is equivalent to 10% of the Peruvian Minimum Wage ("Remuneración Mínima Vital" or RMV in Spanish) in effect as of the date when employees are entitled to this benefit. Therefore, given that starting April 1, 2018, the RMV in effect amounts to S/ 930.00, family allowance amounts to S/ 93.00. It is important to point out that family allowances are granted as a fixed amount and are therefore not increased based on the number of children an employee may have.

On the other hand, in case both parents are employees of the same employer, each parent will be entitled to receive this benefit. Similarly, in case an employee works for more than one employer, such employee will be entitled to receive a family allowance from each of these employers.

B. Requirements

Employers must take into consideration the following requirements to grant family allowances to their employees:

- There must be a valid employment relationship with the employee.
- The employee must be responsible for one or more underage children; if such children are over the age of 18, such children must be attending an institute or university. In this last case, the benefit is granted for a maximum of 6 years after such children reach the legal age.

C. Classification as Salary Item

Family allowances are granted with the purpose of assisting employees to face their responsibilities in respect of their dependent family members. Therefore, even though family allowances are considered as salary items, their social but non-remunerative nature must be taken into account for all purposes. In that sense, their payment will not be related or subject to the number of days worked by the employees during any given month.

Finally, considering the aforesaid, it can be concluded that family allowances are included in the calculation of employment rights and benefits, such as overtime pay, non-working holidays, weekly leave, subsidies, vacation pay, legal bonuses, compensation for years of services, among others.

D. Eligibility

Employees are eligible to receive a family allowance since their hire date and/or since the date when they evidence the existence of underage children or dependent children of legal age pursuing a degree. This fact can be evidenced by means of a letter to the employer attaching a copy of the identification cards of the underage children and their certificates of studies, respectively.

E. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to family allowances contained in relevant legislation may be considered as a minor or serious infraction, which may be sanctioned by the SUNAFIL with penalties ranging between 0.23 tax units (S/ 954.50) and 22.50 tax units (S/ 93,375.00), according to the number of affected employees*.

**Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.*

V. "VIDA LEY" LIFE INSURANCE

A. General Considerations

The employees' right to a "Vida Ley" life insurance is currently regulated by the provisions set forth in Legislative Decree N° 688 - Law on the Consolidation of Employment Benefits. Such provisions state that any employee who provides services to the same employer for 4 years are entitled to the referred insurance, and such right may be granted since the third month of the employment relationship.

Thus, employers are required to hire an insurance company and pay the corresponding premium for each employee who has acquired such right or has been voluntarily granted such right.

B. Insurance Premium and Indemnity

An insurance premium is a sum which employers are required to pay so that the insurance company covers the payment of the corresponding indemnity for any harmful consequences of the covered risk, such as the natural or accidental death of any employee or their total or permanent disability.

The amount of such indemnity is determined as follows:

Indemnity for natural death	Beneficiaries receive 16 times the average of the salaries paid to the employee in the last quarter prior to their death.
Indemnity for accidental death	Beneficiaries receive an amount equivalent to 32 monthly salaries paid to the employee as of the date prior to the accident.
Indemnity for total or permanent disability caused by an accident	Disabled employees receive an amount equivalent to 32 monthly salaries paid to such employee prior to the accident.

C. Obligations of the Employer

Employees are required to provide the employer with an affidavit with their legalized signature, indicating the beneficiaries of their insurance policy in the following order: Spouse or concubine and descendants, and in the absence of these, their parents or underage siblings, also stating the home addresses of each one of them. In addition, any modification to the content of such affidavit must be opportunely informed.

D. Mandatory Registration of "Vida Ley" Life Insurance Contracts

Employers are required to register "Vida Ley" life insurance contracts entered into with insurance companies through the website of the Ministry of Employment within the 30 calendar days following their execution.

Additionally, such registration must be updated in the following cases, within the 5 days following their occurrence:

- Inclusion or exclusion of beneficiaries.
- Inclusion or exclusion of an employee with respect to a contracted insurance policy.
- Modification to the information contained in the registration form.

E. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to the "Vida Ley" life insurance contained in relevant legislation may be considered as a minor or serious infraction, which may be sanctioned by the SUNAFIL with penalties ranging between 0.23 tax units (S/ 954.50) and 22.50 tax units (S/ 93,375.00), according to the number of affected employees*.

**Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.*

VI. EMPLOYEES' PROFIT-SHARING

A. General Considerations

Profit-sharing is an employment benefit which involves withholding a percentage of the employer's business income to directly distribute it among the employees. This benefit is regulated by Legislative Decree N° 892 and its Regulations, Supreme Decree N° 009-98-TR, as well as by the provisions still in force of Legislative Decree N° 677.

B. Requirements

Employees subject to the labor regime of private entities whose employer carries out activities generating business income are entitled to a share of such employer's profits.

Moreover, employers are required to distribute their profits if they have at least 21 hired employees. In this sense, employers must add the total number of employees who were working during each month of the corresponding year, and the total result must be divided by 12. If the number of hired employees varies in any month, employers must take into account the highest number, rounded to the following whole number, provided that the fraction is equal to or higher than 0.5.

C. Distribution Procedure

Profit-sharing is calculated based on the taxable income balance of the taxable year resulting after offsetting losses from prior years, in accordance with Income Tax regulations.

In the case of employers required to distribute profits, the distribution rate is set according the main activity these perform, as detailed below. Such rate is applied to their annual income before taxes.

Economic Activity	Percentage
Fishing companies	10%
Telecommunication companies	10%
Industrial companies	10%
Mining companies	8%
Wholesale and retail companies, and restaurants	8%
Companies performing other activities	5%

In this regard, it is important to point out that the profits to be distributed among employees must be calculated based on the number of days worked by such employees and the salaries paid to these, as follows:

- 50% of profits are prorated among employees, by dividing such amount between the total sum of the days worked by all employees during the year, and the result is multiplied by the number of days worked by each employee.
- 50% of profits are prorated among the employees, by dividing such amount between the total sum of the salaries paid to all employees during the year, and the result is multiplied by the total of the salaries paid to each employee.

In order to calculate employees' profit-sharing, the following will be considered as "days worked":

- Days in which the employee has effectively completed the ordinary work shift of the company.
- Absences considered as days in which the employee attended the workplace, for all purposes under express legal order.
- Days of maternity leave (including prenatal and postnatal period) of the employee.

Moreover, it is important to point out that the profits to be distributed are subject to a maximum cap of 18 monthly salaries per employee. To this end, the monthly average of the salaries paid to each employee in the corresponding period must be taken into consideration.

D. Payment Frequency

Once the amount to be distributed has been calculated, it must be distributed among employees within the 30 calendar days following the deadline to file the Annual Income Tax Return.

On the other hand, employees who have been terminated before the distribution date, are entitled to receive the corresponding amount within the period prescribed by law, since the moment when the distribution should have taken place, without accruing any statutory interests.

In this respect, the rights derived from an employment relationship expire after 4 years counted since such relationship was terminated. Therefore, terminated employees have the referred period to claim their right to have a share of the employer's profits, since the date when such profits were distributed. Once said period expires, uncollected profits are added to the profits to be distributed in the year in which such period expires.

E. Profit-Sharing Statement

Upon the payment of employees' profit-sharing, employers must provide current and former employees entitled to this benefit with a statement detailing the method applied to compute such payment.

F. Administrative Infractions

Employers must take into consideration that the failure to comply with any of the provisions related to the employees' profit-sharing contained in relevant legislation may be considered as a minor or serious infraction, which may be sanctioned by the SUNAFIL with penalties ranging between 0.23 tax units (S/ 954.50) and 22.50 tax units (S/ 93,375.00), according to the number of affected employees*.

**Amounts determined based on the value of 1 tax unit in effect as of year 2018, amounting to S/ 4,150.00.*

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