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Article

Supreme Court delineates the scope of dismissal for repeated tardiness

The Supreme Court, through **Labor Cassation No. 6977-2023-Lima**, ruled on the validity of dismissal for repeated tardiness, specifying the requirements that must be met for such conduct to be classified as serious misconduct, in accordance with Article 25(h) of the Consolidated Text of the Labor Productivity and Competitiveness Law (**Supreme Decree No. 003-97-TR**).

BACKGROUND

The case arises from a claim filed by an employee who challenged his dismissal, arguing that the instances of tardiness attributed to him were not sufficient to justify the termination of the employment relationship and that the measure was disproportionate. He further asserted that the principle of reasonableness had not been respected in the imposition of the most severe sanction.



For its part, the employer justified the dismissal on the basis of repeated acts of tardiness, duly recorded and previously sanctioned, stating that the employee persisted in the breach despite prior disciplinary measures.

JURISPRUDENTIAL CRITERION

The Supreme Court reaffirms that repeated tardiness constitutes a serious breach of an essential obligation under the employment contract, as it affects discipline and the organization of the workplace. However, it clarifies that its characterization as a valid ground for dismissal is not automatic, but rather requires that the following conditions be met:

- Objective proof of repeated instances of tardiness.
- The existence of prior disciplinary sanctions for the same conduct, applied progressively.
- Compliance with the principles of reasonableness, proportionality, and due process.

Likewise, the Court emphasizes that dismissal is only legitimate when it is verified that the employee persisted in the infringing conduct despite having been warned, thereby ruling out arbitrary or isolated decisions.

IMPLICATIONS IN THE PRIVATE SECTOR

- Employers must properly document instances of tardiness and apply a progressive disciplinary regime before resorting to dismissal.
- Repeated tardiness may justify the termination of the employment relationship, provided that due disciplinary procedure is respected.
- The ruling reinforces the importance of having clear internal regulations and reliable attendance records as evidentiary elements in the event of potential judicial disputes.



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Article

New Rules for "Other Methods" in TP: Key Points of Supreme Decree No. 302-2025-EF

On December 17, 2025, Supreme Decree No. 302-2025-EF was published, introducing changes to the Regulations of the Income Tax Law regarding the application of "other methods" for transfer pricing valuation purposes.



This regulatory provision responds to the changes introduced by Legislative Decree No. 1663, which amended numeral 7 (Other valuation methods) of item (e) of Article 32-A of the Income Tax Law. The main purpose of these changes is to establish clear parameters for transactions in which the traditional transfer pricing methods do not adequately reflect the economic reality of the operations.

AMENDMENTS TO EXISTING ARTICLES

The Supreme Decree modifies the first paragraph of Articles 111, 114, and 115 of the Regulations, clarifying that their scope applies exclusively to the methods listed in numerals 1 to 6 of item (e) of Article 32-A of the Law, thereby expressly distinguishing them from the "other methods" regulated under numeral 7.

INCORPORATION OF ARTICLE 113-B: OTHER METHODS

The relevant change is the incorporation of Article 113-B, which establishes the regulatory framework governing the application of other methods for transfer pricing purposes. This provision is structured around four main elements:

1 Reference to International Best Practices

Taxpayers must consider internationally accepted best practices in force as of January 1, 2025, specifically the International Valuation Standards issued by the International Valuation Standards Council, provided that such standards do not conflict with the provisions of the Income Tax Law.

2 Content of the Technical Report

The technical report referred to in item (d) of numeral 7.2 of numeral 7 of item (e) of Article 32-A must contain, at a minimum, the same information required for valuation reports prepared in accordance with the International Valuation Standards in force as of January 31, 2025.

3 Obligation to Maintain Information and Documentation

Taxpayers must maintain sufficient information and documentation to evidence:

- The need to apply an other method different from those listed in numerals 1 to 6 of item (e) of Article 32-A of the Law, as well as the justification for its selection as the most appropriate method, in accordance with numeral 7.1.
- The information and analyses set out in the technical report.

4 Audit authority of SUNAT

The information and documentation supporting the application of other methods may be requested by SUNAT within the framework of a verification or audit procedure.

PRACTICAL IMPLICATIONS FOR TAXPAYERS

- Increased predictability in the application of other methods, reducing interpretative discretion.
- Greater need for specialized transfer pricing and valuation expertise.
- The importance of maintaining documentation that complies with internationally recognized professional valuation standards.



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Legal Regulations

Tax

- Resolution amending the Regulation of the Graduality Regime applicable to infringements of the Tax Code, approved by Superintendency Resolution No. 063-2007/SUNAT, with respect to the graduality applicable to the fine sanction for the infringement set forth in numeral 1 of Article 176 of the Tax Code.

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Legal Basis: Superintendency Resolution No. 000355-2025/SUNAT.

Objective: The purpose of this resolution is to amend the Regulation of the Graduality Regime applicable to infringements of the Tax Code, approved by Superintendency Resolution No. 063-2007/SUNAT, with respect to the graduality applicable to the fine imposed for the infringement set forth in numeral 1 of Article 176 of the Tax Code, in relation to tax returns corresponding to advance payments of Income Tax on first- and fourth-category income, as well as the annual Income Tax return for income other than third-category income.

The aim of this resolution is to encourage the correction of the obligation to file the aforementioned tax returns, thereby facilitating the control of the referred tax obligations by the tax administration.



- Supreme Decree approving the value of the Tax Unit (UIT) for fiscal year 2026.

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Legal Basis: Supreme Decree No. 301-2025-EF.

Effective: December 17, 2025.

Objective: For fiscal year 2026, the value of the Tax Unit (Unidad Impositiva Tributaria – UIT), as a reference index in tax regulations, is established at S/ 5,500.00 (Five Thousand Five Hundred and 00/100 Soles).

- Supreme Decree approving the regulations for remote appearances before Sunat and related to the conditions under which access profiles are granted to the electronic data processing system used by taxpayers to record their accounting operations, and amending the Sunat Audit Procedure Regulation to adapt it to the possibility of requiring such profiles.

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Legal Basis: Supreme Decree No. 303-2025-EF.

Objective: The purpose of this Supreme Decree is to approve the provisions governing remote appearances before the National Superintendence of Customs and Tax Administration (SUNAT), as well as the conditions under which access profiles are granted to the electronic data processing systems used by taxpayers to record their accounting operations.

Likewise, it amends the Regulation of the SUNAT Audit Procedure, approved by Supreme Decree No. 085-2007-EF, in order to incorporate the possibility of requiring such access profiles in a definitive or partial audit procedure, other than a partial electronic audit procedure.

- Resolution establishing monetary adjustment indices for the purpose of determining the tax basis of real estate transferred by individuals, undivided estates or marital partnerships that elected to be taxed as such.

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Legal Basis: Vice-Ministerial Resolution No. 023-2025-EF/15.01.

Objective: Vice-Ministerial Resolution No. 023-2025-EF/15.01 approved the monetary adjustment indices applicable for determining the tax basis of real estate transferred by individuals, undivided estates or marital partnerships that elected to be taxed as such, for transfers carried out between December 5, 2025 and the publication of the indices for the following month. These indices, calculated based on the Wholesale Price Indices published by the National Institute of Statistics and Informatics (INEI), allow the adjustment of the acquisition or construction value of the property by applying the index corresponding to the month and year of acquisition. The approved indices are available on the website of the Ministry of Economy and Finance (MEF).

- Supreme Decree amending the Regulations of the Income Tax Law.

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Legal Basis: Supreme Decree No. 302-2025-EF.

Objective: Supreme Decree No. 302-2025-EF amended the Regulations of the Income Tax Law to align them with the changes introduced by Legislative Decree No. 1663 regarding the application of the so-called "other valuation methods" for transfer pricing purposes, when the traditional methods provided for in Article 32-A are not appropriate. It clarifies that the regulatory rules on the elimination of differences, determination of price ranges and the interquartile method are applicable only to methods (1) to (6), thereby defining their scope. In addition, Article 113-B was incorporated into the Regulations, establishing that other valuation methods must be supported by internationally accepted best practices in force as of January 1, 2015, such as the International Valuation Standards, and that taxpayers must maintain the information and documentation required under such standards, which may be requested by SUNAT during audit or verification procedures.

- Superintendency Resolution designating and excluding withholding agents for the General Sales Tax (IGV).

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Legal Basis: Superintendency Resolution No. 000367-2025/SUNAT.

Effective: February 1, 2026.

Objective: Superintendency Resolution No. 000367-2025/SUNAT designated and excluded taxpayers as withholding agents for the General Sales Tax (IGV), with the aim of updating the registry of withholding agents and ensuring the proper functioning of the IGV Withholding Regime. Taxpayers designated or excluded assume or cease such status, as applicable, as of February 1, 2026.

- Law amending the General Sales Tax and Selective Consumption Tax Law to extend the validity of Appendices I and II.

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Legal Basis: Law No. 32542.

Objective: The first paragraph of Article 7 of the General Sales Tax and Selective Consumption Tax Law, whose Consolidated Text was approved by Supreme Decree No. 055-99-EF, is amended as follows:

"Article 7.- Validity and waiver of the exemption

The exemptions contained in Appendices I and II shall remain in force until December 31, 2028."

- Superintendency Resolution incorporating electronic customs appeal files into the Integrated Virtual Case File System, among other matters, amending Superintendency Resolution No. 084-2016/SUNAT.

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Legal Basis: Superintendency Resolution No. 000374-2025/SUNAT.

Objective: Superintendency Resolution No. 000374-2025/SUNAT (published on December 23, 2025 and effective as of January 1, 2026) amended Superintendency Resolution No. 084-2016/SUNAT to incorporate electronic customs appeal files into the Integrated Virtual Case File System (SIEV) and to regulate the submission of documents related to such appeals when a virtual file is generated. The use of the SIEV is expanded for the filing of customs appeals and the management of the corresponding electronic case file, while maintaining the option to submit documents through SUNAT's Virtual Filing Desk. It also clarifies the rules applicable when the taxpayer authorizes a customs broker to submit the appeal or related documents, defining responsibilities regarding the use of the SOL access code and SUNAT's electronic communications.



- Approval of the general schedule for the Annual Income Tax and Financial Transactions Tax return for individuals and micro and small enterprises (MYPE) covered by Law No. 31940 for tax year 2025, among other matters.

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Legal Basis: Superintendency Resolution No. 000386-2025/SUNAT.

Objective: SUNAT approves the due date schedules for the filing and payment of the Annual Income Tax and Financial Transactions Tax (ITF) Return for tax year 2025, applicable to individuals and micro and small enterprises (MYPE) covered by Law No. 31940, as well as to other taxpayers not covered by said law.

- Law amending Law No. 31665, which extends the term established in the Fourth Complementary, Transitional and Final Provision of Law No. 27269, the Digital Signatures and Certificates Law.

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Legal Basis: Law No. 32543.

Objective: Law No. 32543 amends Law No. 31665 for the purpose of extending the authorization period granted to SUNAT to continue performing functions as a Registration or Verification Entity for the Peruvian State (EREP) within the framework of the Digital Signatures and Certificates Law (Law No. 27269).

■ Labor

- Law eliminating labor discrimination and authorizing the National Superintendency of Migration to incorporate workers subject to Legislative Decree No. 1057 into the labor regime of Legislative Decree No. 728, the Law for the Promotion of Employment, on an indefinite-term basis.

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Legal Basis: Law No. 32520.

Effective: December 6, 2025.

Objective: The purpose of this law is to authorize the National Superintendency of Migration to incorporate personnel employed under Legislative Decree No. 1057, which regulates the Special Administrative Services Contracting Regime (CAS), on an indefinite-term basis, into the labor regime established by Legislative Decree No. 728, the Law for the Promotion of Employment, in order to eliminate labor discrimination.

- Law on equal opportunities between women and men.

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Legal Basis: Law No. 32535.

Effective: December 24, 2025.

Objective: The purpose of this law is to establish the legal and institutional framework to guarantee women and men the exercise of their rights to equality, dignity, free development, well-being, and autonomy, prohibiting all forms of discrimination based on sex and promoting equality in the political, labor, economic, social, cultural, and any other sphere, in accordance with the Political Constitution of Peru.



Case Law

JUDICIARY

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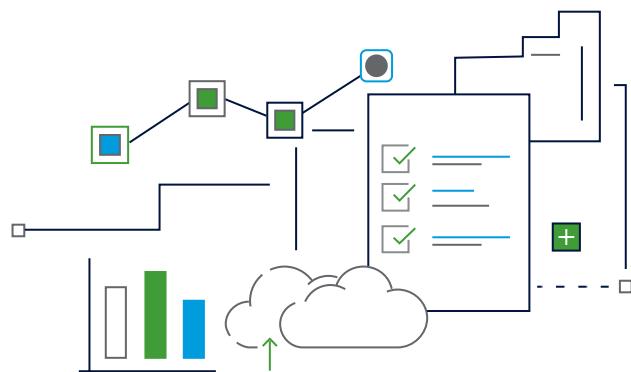


Cassation No. 34397-2023 Lima.

Subject: Monthly Special Bonus for Class Preparation and Evaluation – No Exclusion of Items from the Calculation Base.

Summary: Binding precedent. The calculation base for the monthly special bonus for class preparation and evaluation is the total or integral remuneration, which includes the benefits granted under Decree Law No. 25671, Supreme Decree No. 081-93, Urgency Decree No. 080-94, Urgency Decree No. 090-96, Supreme Decree No. 019-94, Extraordinary Supreme Decree No. 021-92-PCM, Supreme Decree No. 261-91-EF, Urgency Decree No. 073-97, Urgency Decree No. 011-99, and Supreme Decree No. 65-2003.

Decision: To declare UNFOUNDED the cassation appeal filed by the defendant entity, the Ministry of Education.



CONSTITUTIONAL COURT

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Judgment: Appellate Judgment No. 27967-2023 Lima.

Subject: Amparo Action.

Summary: The claimant, Guillermo Ronny Campos Camacho, filed an amparo action seeking the nullity of Labor Cassation Judgment No. 8715-2020 Lima, dated January 4, 2023, issued by the Second Transitory Constitutional and Social Law Chamber of the Supreme Court of Justice, which had declared founded the cassation appeal filed by Petróleos del Perú.

Decision: To CONFIRM the first-instance judgment issued by the Third Constitutional Chamber of the Superior Court of Justice of Lima.

CONSTITUTIONAL COURT

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Judgment: Case File No. 00795-2025-PA/TC.

Subject: Amparo Action.

Summary: Constitutional grievance appeal filed by Pan American Silver Huarón S.A. against the appellate judgment dated September 30, 2024, issued by the Permanent Constitutional and Social Law Chamber of the Supreme Court of Justice, which confirmed the dismissal of the amparo action.

Decision: To declare the amparo action UNFOUNDED.

CONSTITUTIONAL COURT

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Judgment: Case File No. 01083-2025-PHC/TC.

Subject: Habeas Corpus Proceeding.

Summary: Constitutional grievance appeal filed by Lucio Oscar Arias Mena against the resolution dated September 27, 2024, issued by the Fourth Criminal Appellate Chamber of the Superior Court of Justice of Lima Norte, which declared the habeas corpus action inadmissible.

Decision: To declare the habeas corpus action PARTIALLY FOUNDED, having verified the violation of the rights to defense and to multiple instances.

CONSTITUTIONAL COURT

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Judgment: Case File No. 03462-2024-PHC/TC.

Subject: Habeas Corpus Proceeding.

Summary: Constitutional grievance appeal filed by Wilber Guillermo Saravia Sáenz, attorney for Jorge Enrique Brizuela García, against Resolution No. 2 dated December 4, 2023, issued by the First Constitutional Chamber of the Superior Court of Justice of Lima, which declared the habeas corpus action inadmissible.

Decision: To declare the habeas corpus action INADMISSIBLE.

CONSTITUTIONAL COURT

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Judgment: Case File No. 00009-2024-PI/TC.

Subject: Unconstitutionality Proceeding.

Summary: In the Plenary Session of the Constitutional Court held on November 18, 2025, the Justices convened to rule on the unconstitutionality actions that gave rise to Case Files No. 00009-2024-PI/TC and No. 00023-2024-PI/TC (consolidated).

Decision: To declare the unconstitutionality actions filed against Law No. 32107 UNFOUNDED.

JUDICIARY

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Judgment: Cassation No. 433-2022 Ucayali.

Subject: Granting of Public Deed.

Summary: When the evidence offered by the parties is insufficient for the judge at first or second instance to reach a conviction, the judge may exercise the authority granted under Article 194 of the Civil Procedure Code and order the ex officio production of evidence, in order to fulfill the purposes established in Article III of the Preliminary Title of the Civil Procedure Code.

Decision: To declare the cassation appeal filed by the plaintiff, Leonardo Retis Mego, FOUNDED.

JUDICIARY

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Judgment: Cassation No. 2411-2022 Lima.

Subject: Recovery of Ownership (Reivindication).

Summary: As an irremediable defect of nullity has occurred due to a procedural infringement, the Superior Court must issue a new ruling on the merits of the dispute, since a fair decision cannot be reached when it is based on a deficient assessment of the facts, the parties' allegations, and the evidence produced.

Decision: To declare the cassation appeal filed by defendants Rosa Victoria Pimentel Arias and Gamaniel Eusebio Veldi Díaz UNFOUNDED.

JUDICIARY

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Judgment: Cassation No. 693-2022 Lima Norte.

Subject: Nullity of Legal Act.

Summary: As director of the proceedings, the judge must exhaust all necessary means to eliminate legally relevant uncertainty and achieve a fair resolution, in accordance with Article III of the Preliminary Title of the Civil Procedure Code.

Decision: To declare the cassation appeal filed by Wei Lin Lee FOUNDED.

JUDICIARY

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Judgment: Cassation No. 463-2022 Ayacucho.

Subject: Payment for Improvements.

Summary: The Superior Court correctly interpreted Article 917 of the Civil Code by ruling that the owner's consent for improvements may be express or implied, the latter being inferred from acts or conduct that reasonably authorize such presumption.

Decision: To declare the cassation appeal filed by the defendant, Marcial Nicolás Arones Huayta, UNFOUNDED.

SERVIR

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Judgment: Plenary Chamber Resolution No. 002-2025-SERVIR/TSC.

Subject: Notification of Acts Issued in Disciplinary Administrative Proceedings under Law No. 30057 – Civil Service Law.

Summary: The members of the First and Second Chambers of the Civil Service Tribunal, sitting in Plenary Chamber, issued interpretative criteria regarding the notification of acts within disciplinary administrative proceedings, pursuant to the applicable regulatory framework.

JUDICIARY

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Judgment: Cassation No. 3134-2021 Del Santa.

Subject: Preferential Third-Party Payment Claim.

Summary: Since the property subject to enforcement was adjudicated to the executing bank on May 5, 2006, the third-party ownership claim filed on June 10, 2016 was untimely.

Decision: To declare the cassation appeal filed by the representative of the Public Prosecutor's Office **FOUNDED**.

JUDICIARY

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Judgment: Cassation No. 2061-2022 Cusco.

Subject: Nullity of Legal Act.

Summary: The decision of the Superior Court violated the right to effective judicial protection and due reasoning, as it dismissed the claim based on a partial analysis of the facts, despite the controversy having been clearly established and sufficient elements existing to issue a ruling on the merits.

Decision: To declare the cassation appeal filed by Gabino Alejandro Huaco Flores **FOUNDED**.

JUDICIARY

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Judgment: Cassation No. 4378-2019 La Libertad.

Subject: Eviction for Precarious Occupation.

Summary: In proceedings due to precarious occupation, the dispute concerns possession rather than ownership, as precariousness is defined by the absolute absence of any circumstance legitimizing possession, in accordance with Articles 911 of the Civil Code and 586 of the Civil Procedure Code, and consistent with Supreme Court precedent.

Decision: To declare the cassation appeal filed by Gina Durbili Briones Socorro **UNFOUNDED**.



Reports

MTPE

REPORT NO. 000334-2025-MTPE-2-14.1

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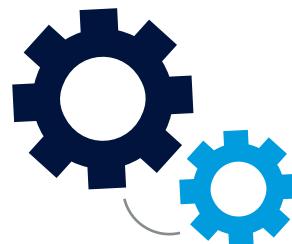


Subject: Legal inquiry regarding the validity of the criteria set forth in Report No. 077-2021-MTPE/2/14.1 in light of the Teleworking Law and the hiring of foreign workers who telework outside the country.

Conclusion:

Through the referenced document, Castillo & Piñero Consultores y Abogados S.A.C. submitted an inquiry to the General Directorate of Labor of the MTPE regarding whether the criteria established in Report No. 077-2021-MTPE/2/14.1, issued by said authority, remain in force, given that they could be contrary to the Regulations of the Law on the Hiring of Foreign Workers approved by Supreme Decree No. 014-92-TR.

Pursuant to item (c) of Article 66 of the Consolidated Text of the Regulations on the Organization and Functions of the MTPE, approved by Ministerial Resolution No. 194-2024-TR, the Directorate of Labor Regulations (DNT) is vested with the authority to issue technical opinions on labor matters. Accordingly, the Directorate proceeds to issue the corresponding technical opinion within the scope of its legally assigned powers.



SUNAT

REPORT NO. 000124-2025-SUNAT/7T0000

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Subject: Institutional inquiry regarding the meaning and scope of tax regulations.

Conclusion:

Taking into consideration the criterion established in Tax Court Resolution No. 03885-8-2021, which constitutes binding jurisprudence, the unused balance of the Temporary Net Assets Tax (ITAN) for a given fiscal year may be offset, at the taxpayer's request, against the monthly advance payments and the annual regularization payment of Income Tax corresponding to a subsequent fiscal year, in accordance with Article 40 of the Tax Code.

SUNAT

REPORT NO. 000125-2025-SUNAT/7T0000

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Subject: Institutional inquiry regarding the meaning and scope of tax regulations.

Conclusion:

Public entities are required to withhold fifth-category Income Tax on the following subsidies granted to public servants subject to the regime established under Legislative Decree No. 276, pursuant to the provisions of Urgency Decree No. 038-2019.

1. Death benefit subsidy.
2. Funeral expenses or full funeral service subsidy.

SUNAT

REPORT NO. 000127-2025-SUNAT/7T0000

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Subject: Institutional inquiry regarding the meaning and scope of tax regulations.

Conclusion:

Natural or legal persons domiciled in the country engaged in aquaculture activities who, in addition to selling VAT-exempt aquaculture products domestically, also export aquaculture products, and who incur VAT-taxed acquisitions whose allocation to either export operations or exempt operations cannot be determined, are required to continue applying the VAT apportionment system (prorata) in order to determine the tax amount constituting the exporter's tax credit balance.

SUNARP

RESOLUTION OF THE PRESIDENT OF THE REGISTRY
TRIBUNAL NO. 329-2025-SUNARP/PT

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Subject: Publication of binding precedents approved at the Ordinary Session of the 310th (CCCX) Plenary of the Registry Tribunal.

Conclusion: The following binding precedents were approved and ordered to be published:

- 1 Acquisition of land within 50 kilometers of national borders through succession.
- 2 Principle of legitimacy and transfer of equity interests (social participations).
- 3 Cancellation of the annotation of an intestate succession application.
- 4 Regularization of municipal properties located outside the territorial jurisdiction of the respective municipality.



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