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Informative Newsletter Legal Regulations

RSM Peru Monthly Newsletter

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The requirement to have a Social Worker in Peru is eliminated

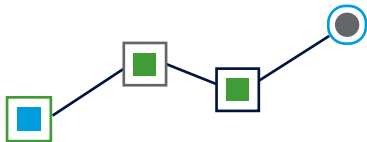
The Ministry of Labor and Employment Promotion has issued Supreme Decree N° 005-2025-TR, which eliminates the obligation for companies with more than 100 employees to have a social worker. This new labor regulation repeals Supreme Decree 009-65 and amends subsection 14 of Article 24 of the Regulations of the General Labor Inspection Law, approved by Supreme Decree N° 019-2006-TR.



1. WHAT DOES SUPREME DECREE N° 005-2025-TR STIPULATE?

On June 14, 2025, Supreme Decree N° 005-2025-TR was issued, repealing Supreme Decree N° 009-65, which had established the mandatory requirement for companies with more than 100 employees on their payroll to have a licensed Social Worker as part of their industrial relations services.

Additionally, the related labor infraction has been modified, and is now updated to focus on the requirement to have an adequate industrial relations department or internal work regulations.



2. WHY WAS SUPREME DECREE N° 009-65 REPEALED?

Through Supreme Decree N° 059-2025-PCM, government entities were instructed to repeal or amend bureaucratic barriers that have been declared illegal or unreasonable. In this context, through Resolution N° 00000598-2024/SEL, it was determined that Supreme Decree N° 009-65 lacked reasonableness, thereby creating the need for its subsequent repeal.

3. IMPLICATIONS OF SUPREME DECREE 005-2025-TR



As of June 15, 2025, companies with more than 100 employees on their payroll will no longer be required to have a licensed social worker as part of their industrial relations services. However, this does not mean that there should be no specialized department or area in this field, as the absence of such would constitute a serious.



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Article

Benefit Test and Local File: The Connection That Defines Your Penalties

DO YOU TRULY UNDERSTAND THE CONNECTION BETWEEN THE LOCAL FILE AND THE BENEFIT TEST?



Many companies deduct expenses for services received from related parties, but forget that, in order to claim that deduction, they must already have the Benefit Test in place and also report it correctly in their Local File.

THE CRITICAL CONNECTION

Article 32-A, subsection (i) of the Income Tax Law (ITL):

To deduct services received from related parties, the taxpayer must comply with the benefit test as a necessary condition for the deduction of the cost or expense.

The correct Flow:

- 1 You receive services from a related party (expense) → Perform the Benefit Test.
- 2 The test demonstrates a benefit → You deduct the expense.
- 3 In the Local File → You report that you have the benefit test.



THE FINE THAT NO ONE MENTIONS

Tax Violation: Article 177, paragraph 5 of the Tax Code: "Failure to provide information required by the Administration".

Furthermore:

- Total disallowance of expenses for services without a benefit test.
- Adjustments for transfer pricing application.
- Late interest from the due date.

KEY MESSAGE

Deducting expenses for services from related parties.



Correctly reporting in the Local File.

They are two distinct but connected moments:

- **Moment of deduction:** You must have the benefit test.
- **Moment of reporting:** You must report that you have it.

THE KEY



The Benefit Test is prior to the deduction of the expense, not after SUNAT's request.



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Legal Regulations

Tax

- Law that Promotes Fiscal Decentralization to Encourage the Development of Local Governments by Strengthening the Municipal Compensation Fund (FONCOMUN)

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Legal basis: Law N° 32387

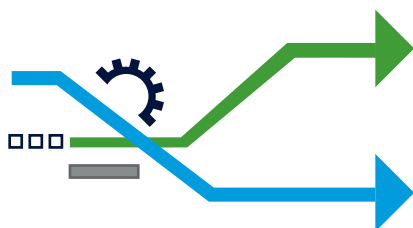
Effective date: As of June 16, 2025.

Purpose: This law aims to promote fiscal decentralization to encourage the development of local governments through the strengthening of the Municipal Compensation Fund (FONCOMUN), thereby ensuring the sustainable development of the country's remote areas through the effective and efficient distribution of State resources.

It establishes:

- Progressive reduction of the Value added tax (VAT), from 18% to 14%
- Progressive increase of the Municipal Promotion Tax (IPM), from 2% to 4%

These modifications will be applied gradually from January 1, 2026, until 2029, with annual variations of 0.5 percentage points.



- Superintendency Resolution Establishing the Conditions and Procedure for Submitting a Letter of Guarantee in the Contentious Tax Procedure for the Admission of Untimely Appeals and Claims, as well as Untimely Evidence during the Claims Stage

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Legal basis: Superintendency Resolution N° 000224-2025/SUNAT

Effective date: As of June 30, 2025.

Purpose: This Superintendency Resolution aims to establish the conditions that the letter of guarantee must meet when submitted in the contentious tax procedure for the admission of untimely appeals and claims, as well as untimely evidence during the claims stage. It also regulates the submission process and the deadlines for renewal, return, and enforcement of the guarantee, in order to provide claimants with clarity on these aspects, as regulated in a single resolution applicable to both tax and customs matters.

- Amendment to Annex 1 of Directive N° 001-2019-EF/60.05, "Guidelines for the Preparation, Submission, Monitoring, and Evaluation of Fiscal Adjustment Commitments (CAF) by Regional and Local Governments within the Framework of Legislative Decree N° 1275

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Legal basis: Directorial Resolution N° 001-2025-EF/60.05

Effective date: As of June 20, 2025.

Purpose: To amend Annex 1 of Directive N° 001-2019-EF/60.05, "Guidelines for the Preparation, Submission, Monitoring, and Evaluation of Fiscal Adjustment Commitments (CAF) by Regional and Local Governments within the Framework of Legislative Decree No. 1275," approved by Directorate Resolution N° 001-2019-EF/60.05, which forms an integral part of this Directorial Resolution.

- Ministerial Resolution Approving the Distribution Indices of the Mining Canon Derived from the Income Tax for the Fiscal Year 2024

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Legal basis: Ministerial Resolution N° 277–2025–EF/50

Purpose: The purpose of this resolution is to approve the Distribution Indices of the Mining Canon derived from the Income Tax for the Fiscal Year 2024, to be applied to the beneficiary regional and local governments, as per the Annex "Distribution Indices of the Mining Canon derived from the Income Tax for the Fiscal Year 2024," which forms an integral part of this Ministerial Resolution.

- Ministerial Resolution approving the distribution ratios of the gas canon derived from the income tax for fiscal year 2024

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Legal basis: Ministerial Resolution N° 290–2025–EF/50

Purpose: This Resolution approves the distribution ratios of the Gas Canon derived from Income Tax corresponding to Fiscal Year 2024, to be applied to the beneficiary regional and local governments, in accordance with the Annex "Distribution Ratios of the Gas Canon derived from Income Tax corresponding to Fiscal Year 2024," which forms an integral part of this Ministerial Resolution.

- Monetary Adjustment Indices for the Purpose of Determining the Computable Cost of Properties Transferred by Natural Persons, Undivided Estates, or Marital Societies That Chose to Tax as Such

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Legal basis: Vice–Ministerial Resolution N° 011–2025–EF/15.01

Effective date: As of June 06, 2025.

Purpose: For the transfer of real estate carried out by natural persons, undivided estates, or marital societies that have opted to be taxed as such, from the day following the publication of this Vice–Ministerial Resolution until the publication date of the Vice–Ministerial Resolution establishing the monetary adjustment indices for the following month, the acquisition or construction value, as applicable, shall be adjusted by multiplying it by the monetary adjustment index corresponding to the month and year of acquisition of the property, in accordance with the Annex that forms an integral part of this Vice–Ministerial Resolution.



Labor

- Supreme Decree Repealing Supreme Decree N° 009-65

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Legal basis: Supreme Decree N° 005-2025-TR

Effective date: As of June 14, 2025.

Purpose: The purpose of this regulation is to repeal Supreme Decree N° 009-65, which established the requirement to have a social worker. Additionally, it proposes an amendment to paragraph 24.14 of Article 24 of the Regulations of the General Labor Inspection Law, approved by Supreme Decree N° 019-2006-TR, by adding the following as a serious infraction: "Failure to have an adequate industrial relations office or internal work regulations, when applicable."

- Supreme Decree Approving the Regulation of Law N° 31533, the Law that Promotes the Employment of Young Technicians and Professionals in the Public Sector

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Legal basis: Supreme Decree N° 078-2025-PCM

Purpose: The purpose of this Regulation is to develop the provisions contained in Law N° 31533, the Law that promotes the employment of young technicians and professionals in the public sector. It is primarily aimed at young technicians and professionals who are up to twenty-nine (29) years of age and who participate in public merit-based competitions organized by Public Administration entities.

Corporate

- Amendment to the Regulation on Access and Maintenance of Registration in the Registry of Regional or Provincial Road Accident Fund Associations and to the Single Text of Administrative Procedures (TUPA) of the Superintendency of Banking, Insurance, and Pension Fund Administrators (SBS)

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Legal basis: SBS Resolution N° 02155-2025

Effective date: As of June 23, 2025.

Purpose: This regulation amends paragraphs 4.2 and 4.3 of Article 4 of the Regulation on Access and Maintenance of Registration in the Registry of Regional or Provincial Road Accident Fund Associations, approved by SBS Resolution N° 5624-2019; adds the Third Supplementary Transitional Provision to SBS Resolution N° 5624-2019; and, finally, incorporates Procedure N° 220 into the Single Text of Administrative Procedures (TUPA) of the Superintendency of Banking, Insurance, and Pension Fund Administrators (SBS).



Case Law

JUDICIARY

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Judgment N° 25669–2021 LIMA

Subject: Homologation of the jurisdictional function bonus.

Summary: It is clear then that, under international law, the rule of equal remuneration means the following: the scope of protection of the fundamental right to remuneration in terms of equality and non-discrimination is not exhausted in the comparison and verification of "identical or similar work," but also includes different work (performed under different conditions, with varying levels of effort, among other aspects), as long as it is of equal value.

Decision: The cassation appeal filed by Jorge Eliot Bautista Sigueñas is declared unfounded.

JUDICIARY

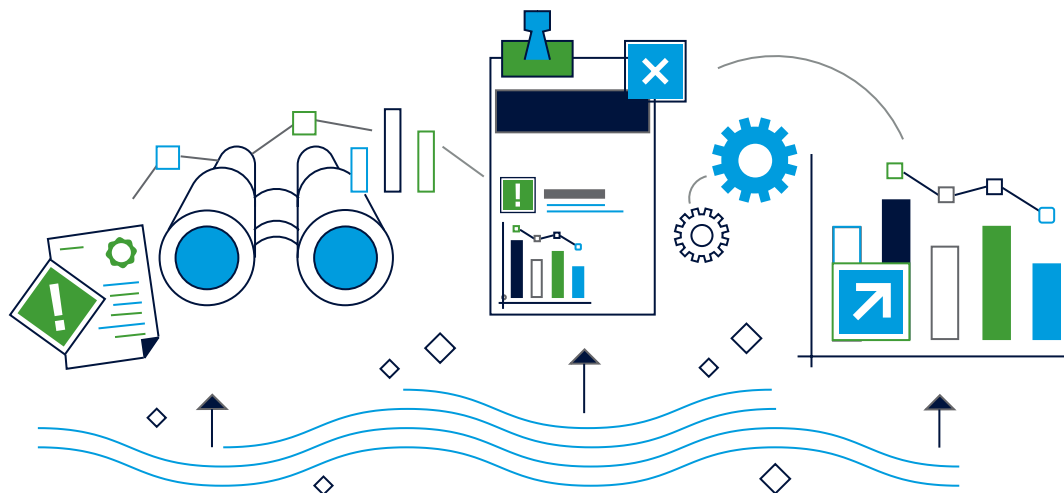
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Judgment N° 576–2021 LIMA

Subject: Non-compliance with labor regulations.

Summary: The benefits of a collective agreement, even when one of its clauses stipulates that they apply only to union members, shall also be extended to those workers who, due to precarious employment conditions or the existence of simulation and/or fraud against the law, were not in a position to join the union. This includes workers who sign civil contracts to conceal an actual employment relationship, those arbitrarily employed under a labor regime that does not apply to them, as well as those who were not formally included on the payroll of their real employer due to fraudulent practices in outsourcing, subcontracting, or within a group of companies.

Decision: Declare partially uphold the appeal filed by the District Municipality of Santiago de Surco.



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Judgment N° 21113–2021 LIMA

Subject: Compensation for damages in an ordinary proceeding.

Summary: The benefits granted under Law N° 27803 to former workers whose dismissals were deemed irregular and who were registered in the National Registry of Irregularly Dismissed Workers, pursuant to Article 3, are alternative and mutually exclusive. These benefits include: a) Reinstatement or job relocation; b) Early retirement; c) Economic compensation; or d) Training and business reconversion.

Decision: Declare partially uphold the appeal filed by the Judiciary.

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Judgment N° 16065–2023 LIMA

Subject: Compensation for Damages in an Ordinary Proceeding.

Summary: For the serious misconduct set forth in subsection (a) of Article 25 of Supreme Decree N° 003–97–TR to be established, it must be proven with reliable documentation clearly showing that labor obligations were breached. Therefore, such serious misconduct cannot be based solely on circumstantial evidence.

Decision: Declare unfounded the cassation appeal filed by the Supervising Agency for State Procurement – OSCE.

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Judgment N° 25994–2024 PUNO

Subject: Reinstatement and Other Claims, Ordinary Proceeding.

Summary: According to subsection (a) of Article 25 of Supreme Decree No. 003–97–TR, serious misconduct includes the breach of work obligations that implies a violation of good faith in labor relations. Therefore, a worker cannot be sanctioned for such misconduct for adjusting the angle of a security camera when such action is not part of their job duties. Furthermore, according to the Internal Work Regulations, in order to sanction a worker for serious misconduct, a disciplinary procedure must be followed as established by the Disciplinary Committee.

Decision: Declare well founded the cassation appeal filed by Miguel Ángel Cisneros Chevarría.

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Judgment N° 22735–2022 AREQUIPA

Subject: Reinstatement and Other Claims, Ordinary Proceeding.

Summary: When an individual invokes the status of a worker and alleges the existence of a concealed employment relationship through a civil, commercial, or other non-labor contract, the judicial authority has the obligation to assess whether the essential elements of an employment contract are present, in accordance with the body of labor protection norms. This includes the application of constitutional labor principles and the presumption of an employment relationship, within the framework of the dynamic burden of proof system regulated by Article 23 of Law N° 29497.

Decision: Declare well founded the cassation appeal filed by Luis Eduardo Ramos Llanos.

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Judgment N° 8007–2019 LA LIBERTAD

Subject: Non-compliance with Labor Regulations.

Summary: The fact that the recognition of the employment relationship due to the disqualification or invalidity of contracts is part of the cause of action in reinstatement, payment of social benefits, or other processes does not limit the filing of a declaratory claim in this regard. It must be considered that the claiming worker is unable to enjoy labor benefits and rights unless there is formal recognition of their employment relationship, thus highlighting the need to resort to the judicial authority for such recognition.

Decision: Declare unfounded the cassation appeal filed by José Mercedes Gonzales Linares.

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Judgment N° 15467–2022 LIMA

Subject: Payment of social benefits and others.

Summary: The degree of representativeness of the workers' union that negotiated the benefits claimed by the plaintiff, as well as the worker's affiliation with such union, is irrelevant if the worker was unable to join the union due to precarious and/or fraudulent employment to which they were subjected.

Decision: Declare well founded the cassation appeal filed by Rodolfo Martin Ucañan Rodríguez.

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Judgment N° 2641–2021 LIMA

Subject: Obligation to pay a sum of money.

Summary: In this regard, we must mention that subsection 1 of Article 1219 of the Civil Code refers to the possibility for the creditor to employ legal means to ensure that the debtor fulfills the obligation. Thus, the creditor may take the necessary legal actions to recover their debt, insofar as the legal framework supports such action. In this sense, the filing of two claims for the same facts is not validated, since the parties have the right to file their defenses in a timely manner (lis pendens or res judicata).

Decision: Declare unfounded the cassation appeal filed by Trimega Corp. SAC.

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Judgment N° 2835–2019 La Libertad

Subject: Nullity of legal act.

Summary: The presence of the nullity cause provided for in subsection 3 of Article 219 of the Civil Code is refuted, as it was not demonstrated that the performance due – the subject of the contract – is impossible for the constitution of legal relations. Our current legal system allows contracting even with respect to third-party assets, especially if the person granting the legal act was registered with the authority to do so, and there was no proof that the beneficiary of the mortgage was aware of the extra-record situation.

Decision: Declare unfounded the cassation appeal filed by Banco de Crédito del Perú.

JUDICIARY

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Judgment N° 4167–2021 AREQUIPA

Subject: Nullity of legal act.

Summary: Based on the above, the appealed decision in the cassation appeal infringes the right to due process, specifically the right to reasoned judicial decisions, as it contains an inconsistent rationale by deviating from the legal debate and leaving the grievances raised by the appellant unanswered.

Decision: Declare unfounded the cassation appeal filed by Enrique Arturo Estrada Zambrano.

JUDICIARY

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Judgment N° 6243–2022 APURIMAC

Subject: Nullity of legal act.

Summary: It is evident from the case file that the Superior Court, in issuing the Decision on Appeal, infringes subsections 3 and 5 of Article 139 of the Constitution. Therefore, we are faced with an irremediable nullity, which must be declared ex officio, as established in Article 176 of the Civil Procedural Code, in order to redirect the process. Thus, the higher court must issue a new ruling taking into account the preceding considerations. It is unnecessary to make a ruling regarding the alleged regulatory violation, given the nullifying effect noted. Consequently, this Supreme Court concludes that the present cassation appeal should be upheld due to the irremediable invalidity of the appealed judgment, and its nullity must be declared in order to renew the flawed procedural act, as required by the imperative content of Article 396, subsection 1, third paragraph of the Civil Procedural Code.

Decision: Declare well founded the cassation appeal filed by Genaro Arteaga Villegas and others.

JUDICIARY

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Judgment N° 3019–2021 AREQUIPA

Subject: Nullity of legal act.

Summary: In this case, it has been verified that the contract of sale executed between the co-defendants regarding the third level (air rights) of the property in dispute constitutes a case of legal impossibility of the object. This is because it involves the sale of a common property, which, as such, is subject to the regime of exclusive and common ownership, regulated by Law N° 27157 and its Regulations. The latter, in Article 134, recognizes that the common property identified is non-transferable. Therefore, the claim for nullity of the legal act is valid based on the cause established in subsection 3) of Article 219 of the Civil Code.

Decision: Declare unfounded the cassation appeal filed by Edson José Frisancho Pinto.

JUDICIARY

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Judgment N° 27991–2022 AREQUIPA

Subject: Reinstatement for wrongful dismissal.

Summary: Freedom of expression in labor relations is not unlimited, as it must be subject to certain limits that ensure its exercise within legal parameters. In this regard, it must be evaluated, among other factors, that the statements made do not have the purpose of damaging the employer's reputation.

Decision: Declare unfounded the cassation appeal filed by Lourdes Beatriz Ingunza Valencia.

JUDICIARY

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Judgment N° 33183–2022 LIMA

Subject: Payment of social benefits and others.

Summary: The work of the video surveillance camera operator is subsumed in the worker category, as their function, regardless of the tools used, is related to surveillance activities, which involve predominantly manual tasks, similar to a street guard providing public space surveillance.

Decision: Declare well founded the cassation appeal filed by Manuel Ángel Vargas Ángeles.

JUDICIARY

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Judgment N° 28680–2019 LAMBAYEQUE

Subject: Recognition and payment of social benefits.

Summary: Through a prior judicial process, the claimant was recognized as a permanent employee under the protection of Article 1 of Law N° 24041. Therefore, the claimant is entitled to the recognition of the years of service since the beginning of the employment relationship with the defendant, as well as the requested social benefits, which do not distinguish between permanent and contracted workers for their receipt.

Decision: Declare unfounded the cassation appeal filed by Universidad Nacional Pedro Ruiz Gallo.

JUDICIARY

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Judgment N° 10922–2021 DEL SANTA

Subject: Recognition of employment relationship.

Summary: The Court of Appeals' judgment violates Article 44 of Legislative Decree N° 276 by giving employment contract status to what the parties did not agree upon, as they entered into personal service contracts and administrative service contracts for periods not covered by the lower court. Additionally, Public Entities are prohibited from negotiating working conditions or benefits directly with their employees that imply salary increases or modify the Unified Remuneration System, which would occur despite the law's express text if the superior collegiate court were to grant the legal qualification that it seeks.

Decision: Declare well founded the cassation appeal filed by the District Municipality of Nuevo Chimbote.

JUDICIARY

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Judgment N° 47348–2022 LIMA

Subject: Salary leveling and others.

Summary: A violation of the constitutional guarantee of due process occurs when a decision is made with defects as outlined in the judgment. In all mentioned cases, the Supreme Court may declare the judgment or order of the appellate court null and direct the superior court to issue a new decision or extend the nullifying effect to the first instance process.

Decision: Declare unfounded the cassation appeal filed by Banco de la Nación.

JUDICIARY

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Judgment N° 55366–2022 DEL SANTA

Subject: Payment of social benefits.

Summary: The plaintiff was not prevented from exercising their right to affiliation; therefore, they would only be entitled to receive the union benefits contained in collective agreements and arbitral awards signed from the time of affiliation.

Decision: Declare unfounded the cassation appeal filed by Goicochea Goycochea Sara Livia.

JUDICIARY

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Judgment N° 23984–2022 CUSCO

Subject: Nullification of dismissal and others.

Summary: It must be considered that neither the dismissal nor the reason alleged can be presumed or assumed; the serious fault committed must be proven, and it is the employer's responsibility to prove the cause of dismissal, while the worker must prove its existence when invoked.

Decision: To declare unfounded the cassation appeal filed by the Sub Committee of Administration of the Assistance and Incentive Fund of the Regional Education Directorate of Cusco – SUB CAFAE S.E. CUSCO.

JUDICIARY

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Judgment N° 5532–2022 SELVA CENTRAL

Subject: Compensation for damages and others.

Summary: When the Court of Appeals' decision meets the required standards concerning the respect for the right to the motivation of judicial decisions, by substantiating its decision and responding to essential allegations made by the parties, no violation of due process and motivation of judicial resolutions occurs.

Decision: Declare unfounded the cassation appeal filed by the Ministry of Transport and Communications.

JUDICIARY

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Judgment N° 36879–2022 MOQUEGUA

Subject: Disability subsidy reimbursement.

Summary: According to the applicable regulations, for the Social Security to cover the provided benefits, the employer must have contributed for three consecutive months or four non-consecutive months within the six months prior to the contingency month, and must have declared and paid (or have a current payment plan) the contributions corresponding to the twelve months prior to that period. In this case, it is confirmed that the plaintiff entity, in its capacity as employer, met these requirements by making the contributions for three consecutive months within the period before August 2015, the month the contingency occurred. Therefore, the defendant entity is required to cover the cost of the granted benefits.

Decision: Declare unfounded the cassation appeal filed by the Social Health Insurance – EsSalud.

JUDICIARY

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Judgment N° 18568–2024 LIMA

Subject: Immediate application of the rule.

Summary: In accordance with the binding criteria of Cassation N° 11947–2022, the application of numeral 1 of Article 178 of the Tax Code modified by Legislative Decree N° 1311 is relevant, which states that in order for the violation of declaring false figures or data to be established, it is necessary to declare false figures or data that influence the determination and payment of the tax obligation.

Decision: Declare partially uphold the cassation appeal filed by Despensa Peruana Sociedad Anónima.

JUDICIARY

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Judgment N° 16934–2023 LIMA

Subject: Articles 113°, 125°, and 174° of the General Corporations Law.

Summary: As established in Article 174 of the General Corporations Law, and reiterated by SUNARP rulings, it is feasible to delegate certain functions to the president of the board of directors, as in this case, to carry out the corresponding call to the general shareholders' meeting.

Decision: Declare well founded the cassation appeal filed by Inmobiliaria Las Gambusinas S.A. and the National Superintendency of Public Registries – SUNARP.

JUDICIARY

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Judgment N° 4409–2022 JUNÍN

Subject: Maternity subsidy reimbursement.

Summary: Given the involvement of fundamental rights in the discussion, the application of Law N° 26790 should be preferred, as it is of higher rank and more favorable to the working mother, and its scope should be interpreted rigorously, according to Article 138 of the Political Constitution of Peru.

Decision: Declare unfounded the cassation appeal filed by the Social Health Insurance – ESSALUD.

JUDICIARY

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Judgment N° 56152–2022 LIMA

Subject: Article 39° of the Fisheries Inspection and Sanctions Regulation.

Summary: The Superior Court did not take into account the legal nature of the Occurrence Report N° 402–006 N° 00005 dated May 2, 2014, in relation to Article 39° of the Fisheries Inspection and Sanctions Regulation approved by Supreme Decree N° 016–2007–PRODUCE, which aimed to demonstrate what occurred in the facts.

Decision: Declare unfounded the cassation appeal filed by Industrial Don Martin S.A.C.

JUDICIARY

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Judgment N° 14350–2023 LIMA

Subject: Article 35 of Law N° 27444, General Administrative Procedure Law.

Summary: The appellant claims that positive administrative silence has taken effect regarding their application for an operating license, as Article 35 of the General Administrative Procedure Law (LPAG), in accordance with Article 3 of Law N° 29060, the Law on Administrative Silence (in force at the time of the events), stipulated that the period from the evaluation of the request to the issuance of a resolution could not exceed thirty (30) business days. Therefore, by submitting a Sworn Statement to the entity itself—which triggered the fictitious approval—they exercised their rightful claim.

Decision: Declare well founded the cassation appeal filed by Laney Corp S.A.C.

JUDICIARY

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Judgment N° 2222–2023 AMAZONAS

Subject: Article 3 of the Consolidated Text of Law 27584 – Administrative Litigation Procedure.

Summary: Contracts of sale derived from administrative acts carried out by public officials within the scope of their authority can only be challenged through administrative litigation proceedings, in accordance with Article 3 of the Consolidated Text of Law 27584. It is therefore clear that the Contracts of Sale for Jungle and Jungle Edge Lands N° 0365 and N° 0366 were based on administrative acts by public officials, thus not comparable to a private negotiation between individuals.

Decision: Declare well founded the cassation appeal filed by Alberto Gamonal Delgado.

JUDICIARY

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Judgment N° 14868–2022 CUSCO

Subject: Payment of bonuses.

Summary: The cassation complaint for improper reasoning is declared unfounded, as the appellate court did analyze the remunerative concepts forming the basis for the claimed bonuses. It applied the principle of legal hierarchy and Supreme Court jurisprudence, ordering an adjustment based on Law N° 24029 and considering the increase from Emergency Decree N° 105–2001, which prevails over the limitations set forth in Supreme Decree N° 196–2001-EF.

Decision: Declare unfounded the cassation appeal filed by the Office of Pension Normalization (ONP).

JUDICIARY

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Judgment N° 55843–2022 LIMA

Subject: Motivation of judicial decisions.

Summary: The Superior Court, when issuing its appellate ruling, failed to address all the grievances raised by the appealing company. From the facts and evidence in the case, it is clear that the Administration treated the administrative reconsideration appeal as if it were an appeal, but the Superior Court did not evaluate or address this issue in its ruling. Therefore, the court failed in its duty to analyze the particular circumstances of the case and to provide a reasoned and coherent response.

Decision: Declare well founded the cassation appeal filed by Servosa Cargo S.A.C.

JUDICIARY

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Judgment N° 38833–2022 LIMA

Subject: Recognition of employment relationships and others.

Summary: The right to properly reasoned judicial decisions is a fundamental component of the right to due process. It requires that judges, when resolving cases, express the objective reasons or justifications behind their decisions.

Decision: Declare well founded the cassation appeal filed by Omnia Médica S.A.C.

JUDICIARY

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Judgment N° 50400–2022 JUNÍN

Subject: Granting of labor rights and others.

Summary: The right to due process requires that judges express the objective justifications for their decisions, which must stem not only from the applicable legal framework, but also from the facts duly proven in the case, through a comprehensive evaluation of the evidence.

Decision: Declare well founded the cassation appeal filed by the District Municipality of El Tambo.

JUDICIARY

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Judgment N° 55450–2022 LIMA

Subject: Reinstatement.

Summary: In the case of temporary contracts due to the start or increase of activity regulated by Article 57 of the Consolidated Text of Legislative Decree N° 728, Labor Productivity and Competitiveness Law, approved by Supreme Decree N° 003–97–TR, there must be a clear and precise objective cause to justify the temporary contract. Sufficient evidence must be provided to support the reasons for choosing a fixed-term contract instead of an indefinite one.

Decision: Declare well founded the cassation appeal filed by Farminindustria S.A.C.

JUDICIARY

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Judgment N° 5438–2022 LA LIBERTAD

Subject: Invalidity of labor outsourcing and others.

Summary: The duties of the supervisor of the User Service Module do not form part of the main activity of the defendant, Essalud, as they do not directly contribute to the institution's primary purpose—providing health services. Therefore, it is not possible to declare the invalidity of the labor outsourcing contracts signed by the institution.

Decision: Declare partially upholds the cassation appeal filed by the Social Health Insurance – Essalud.

Reports

SUNAT

Report N.º 000075-2025-SUNAT/7T0000

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

Conclusion: According to subsection (d) of Article 10 of Law N° 32201:

1. Income subject to income tax, not declared and generated up to the 2022 fiscal year, which by December 18, 2024, is included in a duly notified assessment resolution, and regarding which the taxpayer has not filed a claim as of that date, may be eligible for inclusion under the Regime.

2. Income subject to income tax, not declared and generated up to the 2022 fiscal year, which by December 18, 2024, is included in an assessment resolution against which SUNAT has already dismissed the taxpayer's claim, and provided that the taxpayer has not filed an appeal before the Tax Court as of that date, may also be eligible for the Regime, as long as the six (6) month period from the date following the notification of the dismissal resolution has not expired by December 18, 2024.



SUNAT

Report N.º 000069-2025-SUNAT/7T0000

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

Conclusion: The enforcement officer may order an entity to carry out a garnishment (retention) on amounts owed to a member of a consortium involved in a coercive collection proceeding, regardless of whether the invoice corresponding to said debt was issued by a consortium with independent accounting or by the representative of a consortium without independent accounting.

SUNAT

Report N.º 000064-2025-SUNAT/7T0000

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

Conclusion: According to the Vienna Convention and the Regulation on Diplomatic Immunities and Privileges, income obtained by a Diplomatic Mission from the sale of real estate owned by the sending State it represents—provided such properties are registered with the Ministry of Foreign Affairs and are used exclusively as the official residence of its diplomatic agents—is exempt from Income Tax, as long as those diplomatic agents are heads of the mission, in accordance with the aforementioned regulation.

SUNAT

Report N.º 000062-2025-SUNAT/7T0000

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

Conclusion:

Regarding the tax benefits provided by Law N° 30309:

1. Companies that meet the requirements established by both Legislative Decree N° 299 – Financial Leasing Law, and Law N° 30309, may simultaneously benefit from the provisions of both legal frameworks for expenses incurred from the use of assets under financial leasing, provided these are used in projects qualified as R+D+I (Research, Development, and Innovation).
2. For R+D+I project expenses incurred during the 2022 fiscal year which, in accordance with Article 5 of Law N° 30309, are deductible in the 2023 fiscal year, the additional deduction in effect for 2023 is applicable.

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Report N.º 000057-2025-SUNAT/7T0000

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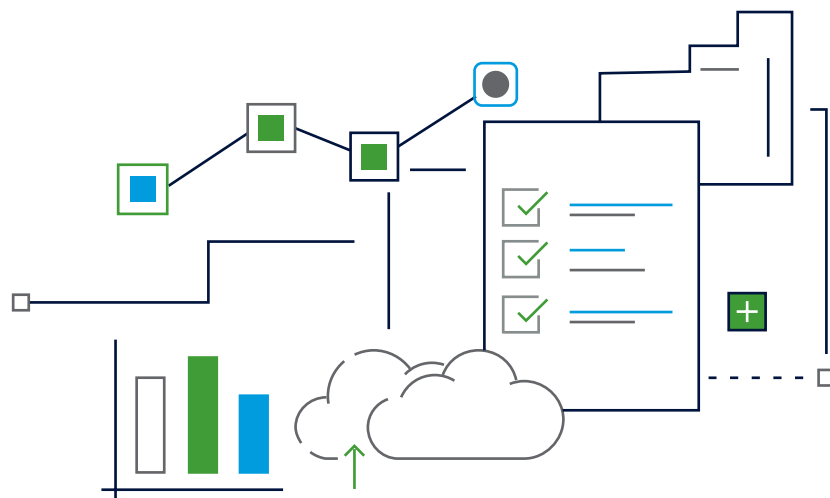


Subject: Institutional inquiry regarding the interpretation and scope of tax regulations.

Conclusion:

When the Regulations on Payment Vouchers use the term “others” in reference to the reasons for issuing a credit note, it refers to situations different from cancellations, discounts, bonuses, or returns, where the tax regulations require the issuance of such a document.

Electronic credit notes issued for the reasons described under codes 3, 10, and 13 of Annex 8 of Resolution N° 097-2012/SUNAT fall under the “others” category mentioned in subsection 1.1 of Article 10 of the Payment Voucher Regulations.



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Report N.º 000056-2025-SUNAT/7T0000

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

Conclusion:

The Excise Tax (ISC) paid on the acquisition of goods is considered:

- A tax credit for ISC purposes, when it is recoverable from tax authorities, that is, when it qualifies as a credit or balance in favor under the provisions of the VAT and ISC Law.
- A computable cost for those goods when sold, for Income Tax purposes, provided that: i) It is necessary to place the goods in a condition to be sold, and ii) It is not recoverable from the tax authorities, meaning it does not qualify as a credit or balance in favor under the VAT and ISC Law.

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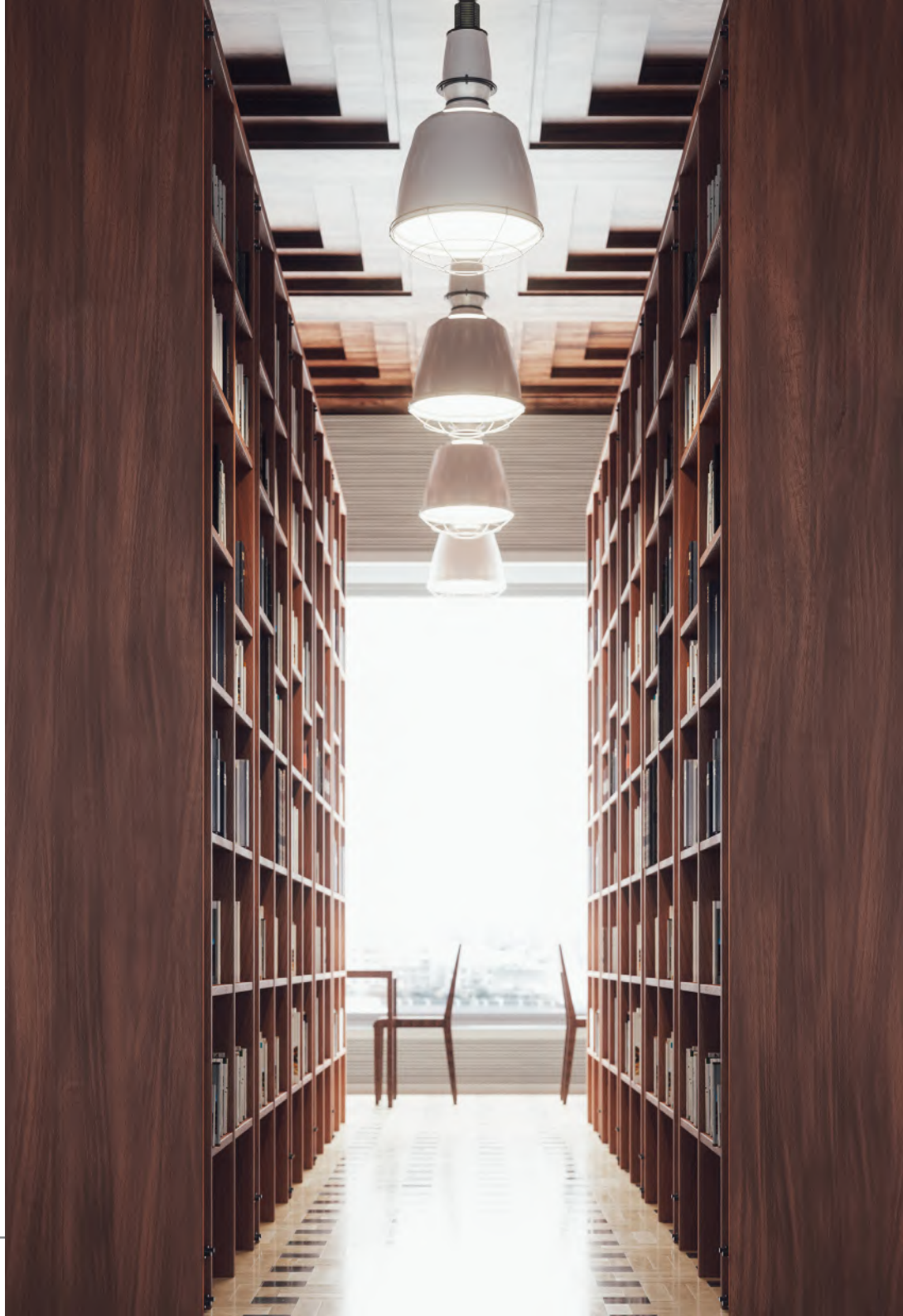
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Subject: Institutional inquiry regarding the interpretation and scope of tax regulations.

Conclusion:

Loan and/or pawn companies that are required to register in the Registry of Companies and Individuals Conducting Financial or Currency Exchange Operations, regulated by SBS Resolution N° 00650-2024, are not within the scope of the exemption provided in the first and second paragraphs of subsection (r) of Article 2 of the VAT Law.



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