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# Informative Newsletter Legal Regulations

RSM Peru Monthly Newsletter

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# Article

## Recovery of Invested Capital in Shares in Peru: What You Need to Know

Investing in stocks is a strategic decision that can generate good returns. However, there comes a time when the investor—whether an individual or a legal entity—wants to recover the capital initially contributed. In the case of Peru, there are various ways to do this, along with specific procedures that must be followed, especially when it comes to non-resident investors.

Below, we present a clear guide on the main ways to recover capital and the key role of the Invested Capital Certificate issued by SUNAT.

### COMMON WAYS TO RECOVER YOUR INVESTMENT

Among the most commonly used alternatives to recover invested capital in shares are:

- **Sale of shares:** This can take place on the secondary market (such as the Lima Stock Exchange) or through private transactions.
- **Dividend distribution:** Some companies distribute profits periodically, allowing shareholders to recover part of their investment.
- **Mergers or acquisitions:** Shareholders may receive cash payments or shares from the acquiring company.
- **Share buybacks:** Some companies implement programs to repurchase their own shares.
- **Company liquidation:** In this scenario, assets are distributed among creditors and shareholders.

- Redemption of preferred shares, if applicable.
- **Initial Public Offering (IPO):** If the investment was made before the IPO, selling shares on the market can generate liquidity.

### THE INVESTED CAPITAL CERTIFICATE: AN ESSENTIAL PROCEDURE WITH SUNAT



When the shareholder is a non-resident investor in Peru, it is mandatory to obtain the Invested Capital Certificate from SUNAT before or during the sale of the shares.

This certificate serves to verify the original amount invested, which is essential for deducting that amount from the capital gains tax calculation. Otherwise, there is a risk that SUNAT will consider the entire sale price as taxable income.

### IMPORTANCE OF THE PROCEDURE

This certificate is a key requirement for any sale of shares by a non-resident. Besides its tax impact, its presentation is generally required by notaries and financial institutions to formalize the transaction. Not having the certificate can result in excessive tax payments and delays in closing the operation.



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# Article

## Consistency Between the Nature of the Operation and Accounting Records: A Fundamental Pillar in Transfer Pricing

### WHY IS IT CRUCIAL TO CORRECTLY IDENTIFY THE NATURE OF TRANSACTIONS WITH RELATED PARTIES?

Correctly identifying the **true economic nature** of transactions between related parties is not just a formality; it is the foundation that determines the application of the most appropriate transfer pricing method and, consequently, the compliance with tax obligations.

### REGULATORY FRAMEWORK: ITL AND OECD GUIDELINES

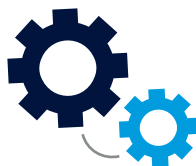
#### ■ Income Tax Law (ITL) – Article 32°–A

The Income Tax Law (ITL) establishes that transactions between related parties must be agreed upon at **market value**, taking into account the characteristics and circumstances under which transactions between independent parties occur under similar conditions.

#### ■ OECD Guidelines – Arm's Length Principle

The OECD Guidelines emphasize that **precisely defining** the controlled transaction is the critical first step in any transfer pricing analysis, including:

- Identification of the parties involved in the transaction.
- Determination of economically relevant characteristics (functions, assets, and risks).
- Analysis of the true economic substance.
- Analysis of formal contracts versus actual conduct.



### THE IMPORTANCE OF ACCOUNTING CONSISTENCY

#### 1. Substance over Form Principle

The accounting record must reflect the **economic reality** of the transaction, not merely its legal form. Any inconsistency between the two can lead to:

- Inquiries initiated by SUNAT.
- Primary and secondary adjustments.
- Fines for tax violations.

#### 2. Impact on Method Selection

Each method requires a specific analysis of functions, assets, and risks that must be consistent with the accounting records of the transaction.

### CONCLUSION

Consistency between the identified nature of related-party transactions and their accounting records is not optional: it is a **legal obligation** that protects companies from significant tax contingencies.



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# Legal Regulations

## Tax

- Superintendent's Resolution that modifies the General Procedures "Importation for Consumption" DESPA-PG.01 (version 8) and "Cargo Manifest" DESPA-PG.09 (version 7).

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**Legal Basis:** Superintendent's Resolution N° 000238-2025/SUNAT

**Effective Date:** As of July 14, 2025.

**Objective:** This regulation proposes to modify numerals 1, 2, and 5 of paragraph G and numeral 1 of paragraph O in Section VI; numeral 10 of subparagraph A.7 of paragraph A in Section VII; and Annexes I, IV, and V of Section IX of the general procedure "Importation for Consumption" DESPA-PG.01 (version 8), approved by Superintendent's Resolution N° 084-2020/SUNAT.

- Superintendent's Resolution approving the required percentage to determine the maximum limit for the refund of the Selective Consumption Tax referred to in the Regulations of Emergency Decree N° 012-2019.

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**Legal Basis:** Superintendent's Resolution N° 000242-2025/SUNAT

**Effective Date:** As of July 30, 2025.

**Objective:** The National Superintendency of Tax Administration (SUNAT) has published Superintendent's Resolution N° 000242-2025/SUNAT, by which the required percentage is approved to determine the maximum limit for the refund of the Selective Consumption Tax (ISC), in accordance with the Regulations of Emergency Decree N° 012-2019.

- Extension of the application of discretionary authority in the administration of penalties for infractions related to electronically maintained tax books and records, as provided in Superintendent's Resolution N° 000039-2023-SUNAT/700000 and its amendments.

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**Legal basis:** Resolution of the Deputy National Superintendent of Internal Taxes N° 000032-2025-SUNAT/700000.

**Objective:** To extend the provisions of item 2 in the column "Cases for the Application of Discretionary Authority" of the annex to Resolution of the Deputy National Superintendent of Internal Taxes N° 000039-2023-SUNAT/700000, related to the infractions specified in items 2 and 10 of Article 175 of the Tax Code, whose latest Consolidated Text was approved by Supreme Decree N° 133-2013-EF, in order to:

- Include said infractions when they occur during the periods of July, August, September, October, November, and December 2025; and

- Extend the deadline to correct the generation of records and/or make the corresponding adjustments in the SIRE until January 31, 2026.





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## Labor

- Law that enables the use of digital wallets for the payment of salaries and other labor obligations.

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**Legal Basis:** Law N° 32413

**Objective:** This law aims to promote the use of digital wallets as a valid payment method for employers to pay salaries and other labor obligations to workers in both the public and private sectors. Additionally, it seeks to expand the use of inclusive financial tools, such as digital wallets, to all workers and citizens, in order to effectively and efficiently promote financial inclusion.

## Corporate

- Amendment of accounting manuals for Level 2 and Level 3 savings and credit cooperatives not authorized to collect funds from the public, and other provisions issued.

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**Legal Basis:** SBS Resolution N° 02334–2025

**Effective Date:** As of July 4, 2025.

**Objective:** To amend the Accounting Manual for Level 2 Savings and Credit Cooperatives Not Authorized to Collect Funds from the Public, approved by SBS Resolution N° 577–2019 and its amendments, applicable to Coopacs with total assets greater than 32,200 UIT, as well as the Accounting Manual for Level 3 Savings and Credit Cooperatives Not Authorized to Collect Funds from the Public.



- Approval of the special electronic procedure for changing the national single vehicle license plate through SID-SUNARP; and issuance of other provisions.

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**Legal basis:** Resolution of the National Superintendency of Public Registries N° 00094-2025-SUNARP/SN.

**Effective Date:** As of July 14, 2025.

**Objective:** This regulation approves, effective August 1, 2025, the special electronic procedure for changing the national single vehicle license plate through SUNARP's Digital Intermediation System (SID-SUNARP), which will be mandatory, within the framework of the extraordinary general process for changing the national single license plate and other related regulations issued by the Ministry of Transport and Communications. Exceptionally, if there is an impediment to submitting the request electronically due to the validation process, it may be processed in person in accordance with the provisions of the Vehicle Property Registry Registration Regulations.



- Guidelines approved for the rectification and regularization of information in the Credit Risk Center through the Report of Rectifications and Regularizations of the Debtors' Credit Report – RRCD, and communication to the Superintendency; amendment to the Regulations of Infractions and Sanctions approved by Resolution SBS N° 2755-2018.

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**Legal Basis:** SBS Resolution N° 02531-2025

**Effective Date:** As of August 08, 2025.

**Objective:** To approve the Guidelines for the rectification and regularization of information in the Credit Risk Center through the Report of Rectifications and Regularizations of the Debtors' Credit Report – RRCD and communication to the Superintendency. Applicable to the entities referred to in subsections A and B of Article 16 of the General Law, as well as Banco de la Nación, Banco Agropecuario, the Development Finance Corporation (COFIDE), and Fondo Mivivienda S.A.

- Amendment to the Regulations of the Cooperative Deposit Insurance Fund, approved by SBS Resolution N° 5061-2018.

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**Legal Basis:** SBS Resolution N° 02573-2025

**Effective Date:** As of July 25, 2025.

**Objective:** To amend subsection 12.1 of Article 12, Article 15, Article 16, and subsection 18.1 of Article 18 of the Regulations of the Cooperative Deposit Insurance Fund, approved by SBS Resolution N° 5061-2018 and its amendments.

# Case Law

## SUNAFIL

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### Resolution N° 0536–2025–SUNAFIL/TFL–First Chamber

**Subject:** Occupational health and safety – labor inspection activity.

**Summary:** The appeal for review filed by VOLCAN COMPAÑÍA MINERA S.A.A. against Intendancy Resolution N° 1267–2022–SUNAFIL/ILM, dated July 25, 2022, is PARTIALLY UPHELD.

**Decision:** To declare PARTIALLY UPHELD the appeal for review filed by VOLCAN COMPAÑÍA MINERA S.A.A.

## JUDICIARY

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### Judgment N° 25669–2021 LIMA

**Subject:** Standardization of the bonus for jurisdictional function.

**Summary:** It is therefore clear that, under international law, the principle 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 limited to the comparison and verification of "identical or similar work," but also extends to different work (performed under different conditions, with different levels of effort, among other aspects) that is of equal value.

**Decision:** To declare UNFOUNDED the cassation appeal filed by Jorge Eliot Bautista Sigüeñas.

## 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 its clauses stipulate that they apply only to union members, are also extendable 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 signed civil contracts to conceal an actual employment relationship, those arbitrarily hired under an inappropriate labor regime, as well as those who were not formally registered on the payroll of their true employer due to fraud in outsourcing, subcontracting, or within a group of companies.

**Decision:** To declare PARTIALLY FOUNDED the cassation appeal filed by the District Municipality of Santiago de Surco.

## JUDICIARY

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### Judgment N° 29406–2023 LIMA

**Subject:** Principle of Causality.

**Summary:** The analysis regarding the deductibility of an expense arising from the breach of a contractual clause must begin by considering whether it meets the characteristics of an expense that complies with the principle of causality, and whether it adheres to the criteria of normality, reasonableness, and generality, regardless of whether it was stipulated as a penalty or indemnification clause. An expense is considered causal when it is linked to a restitutive effect derived from excess payments. The requirements imposed by the tax administration for the taxpayer to prove the causality of expenses must not become irrational demands.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the defendant entity, the Ministry of Economy and Finance.



## JUDICIARY

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### Judgment N° 16959–2024 LIMA

**Subject:** Interruption of the statute of limitations.

**Summary:** A harmonized reading of Articles 44, 45, 61, and 75 of the Tax Code—prior to the amendment made by Legislative Decree N° 1113— indicates that the express separation of the causes for interruption of the statute of limitations applicable to each administrative power also implies that their respective limitation periods must be understood as independent and successive, rather than coinciding or running in parallel. Under this logic, only once the tax debt is determined is the administration authorized to initiate collection actions, and only from that point can the corresponding statute of limitations period begin to run.

**Decision:** To declare UNFOUNDED the cassation appeals filed by the Deputy Public Prosecutor in charge of Judicial Affairs of the Ministry of Economy and Finance, representing the Tax Court.

## SUNAFIL

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### Resolution N° 0596–2025–SUNAFIL/TFL – First Chamber

**Subject:** Occupational Health and Safety.

**Summary:** The appeal for review filed by EMBOTELLADORA SAN MIGUEL DEL SUR S.A.C. is PARTIALLY UPHELD, and consequently, the Resolution of the Deputy Intendency N° 165–2023–SUNAFIL/IRE–SISA–AQP, dated February 22, 2023, as well as all subsequent acts and actions issued in the administrative sanctioning procedure under case file N° 1071–2021–SUNAFIL/IRE–AQP, are declared NULL.

**Decision:** To declare the appeal for review PARTIALLY UPHELD, filed by EMBOTELLADORA SAN MIGUEL DEL SUR S.A.C.

## SUNAFIL

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### Resolution N° 0593–2025–SUNAFIL/TFL – First Chamber

**Subject:** Occupational Health and Safety.

**Summary:** The appeal for review filed by the DISTRICT MUNICIPALITY OF ECHARATI is PARTIALLY UPHELD. Consequently, the Sanctioning Deputy Intendency Resolution N°103–2023–SUNAFIL/IRE–CUSCO–SISA, dated February 14, 2023, and the subsequent acts and proceedings within the administrative sanctioning procedure under case file N°351–2022–SUNAFIL/IRE–CUS are declared PARTIALLY NULL.

**Decision:** To declare the appeal for review PARTIALLY UPHELD, filed by the DISTRICT MUNICIPALITY OF ECHARATI.

## SUNAFIL

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### Resolution N° 0627–2025–SUNAFIL/TFL – First Chamber

**Subject:** Labor Relations.

**Summary:** The appeal for review filed by HERMES TRANSPORTES BLINDADOS S.A. is PARTIALLY UPHELD. Consequently, the Deputy Intendency Resolution N° 213–2022–SUNAFIL/ILM/SIRE5, dated February 15, 2022, issued in the administrative sanctioning procedure under case file N° 604–2021–SUNAFIL/ILM, is declared PARTIALLY NULL.

**Decision:** To declare the appeal for review PARTIALLY UPHELD, filed by HERMES TRANSPORTES BLINDADOS S.A.

## JUDICIARY

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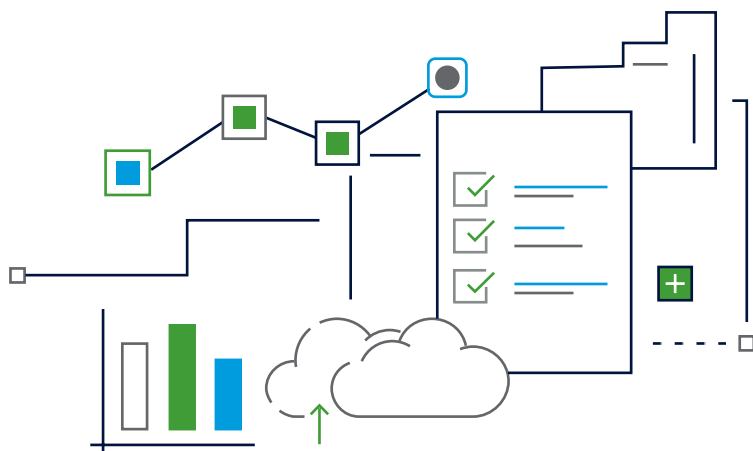


### Judgment N° 11970–2022 Lambayeque

**Subject:** Recalculation of Reference Remuneration.

**Summary:** Regarding the method for calculating the reference remuneration established in Article 2 of Supreme Decree N° 099–2002–EF, this provision applies only to voluntary insured persons and to mandatory insured persons who opted for voluntary continuation. Consequently, it does not apply to mandatory insured persons, such as the plaintiff in this case, whose calculation must be made in accordance with Article 2 of Decree Law N° 25967.

**Decision:** To declare PARTIALLY FOUNDED the cassation appeal filed by the plaintiff, Brisaida Gavidia de Fernandez.



## JUDICIARY

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### Judgment N° 36542–2023 LIMA

**Subject:** Non-application of Late Payment Interest Due to Delays in Administrative and Judicial Resolutions.

**Summary:** The suspension of the application of late payment interest due to the expiration of the maximum time limit for resolution, as regulated in Article 33 of the Consolidated Text of the Tax Code and its amendments, must be applied in accordance with the binding precedent established by the Constitutional Court in the judgment issued in Case N° 3525–2021–PA/TC (MAXCO case). The procedural rule states:

“In cases where appeals are pending before the Tax Court and the legal deadline for a decision has been exceeded, the party has the right to either await a resolution that complies with the substantive rule of this precedent, or to invoke negative administrative silence and bring the matter before a contentious-administrative proceeding, as it constitutes an equally satisfactory route—not through a constitutional amparo proceeding.”

Judicial instances must rule on the request for the non-application of interest, even if it was not raised during the administrative stage.

**Decision:** To declare FOUNDED the cassation appeal filed by the defendant entity, the National Superintendency of Customs and Tax Administration – SUNAT.

## JUDICIARY

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### Judgment N° 412–2020 AREQUIPA

**Subject:** Invalidity of Legal Act.

**Summary:** According to the first paragraph of Article 315 of the Civil Code, the disposition of joint property requires the intervention of both spouses, and this is an essential element for the validity of the legal act. The failure of one spouse to intervene renders the act invalid.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the defendant, Ana Beatriz Turpo Gibera.

## JUDICIARY

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**Judgment N° 564–2021 LIMA**

**Subject:** Obligation to Pay a Sum of Money.

**Summary:** The Supreme Court cannot overturn the appealed judgment, as Article 397 of the Civil Procedural Code provides that it lacks the authority to annul a resolution when the decision aligns with the law. In this case, the lease agreement executive title is not enforceable for the collection of the invoices from February and March 2017, as Article 689 of the Civil Procedural Code requires that the obligation be certain, express, and enforceable; and in this case, the obligation in question does not meet the enforceability requirement, as it is uncertain.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the plaintiff, Inversiones Inmobiliarias y Servicios Múltiples E & E S.A.C.

## JUDICIARY

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**Judgment N° 646–2018 LAMBAYEQUE**

**Subject:** Adverse Possession.

**Summary:** The evaluation of evidence, as it pertains to the internal judgment of the judge, cannot be directly questioned but rather indirectly, meaning through the reasoning expressed in the resolution.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the plaintiff Clotilde Victoria Paz Navarrete.

## JUDICIARY

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**Judgment N° 826–2020 LIMA ESTE**

**Subject:** Invalidity of Legal Act.

**Summary:** The principle of “iura novit curia” — “the judge knows the law” — is recognized in Article VII of the Preliminary Title of the Civil Procedural Code as a normative and procedural principle. It is understood as a duty imposed on judges to resolve conflicts of interest by applying the law relevant to the case, even if it was not invoked by the parties or was invoked incorrectly. This applies within the framework of the constitutional principle of effective judicial protection and the purpose of the process.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the defendant Manuel Alonso Flores.

## JUDICIARY

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**Judgment N° 1002–2021 SAN MARTIN**

**Subject:** Compensation for Damages.

**Summary:** In this case, the appellant essentially challenges the amounts set for compensation by the lower courts. However, it is noted that the appellate judgment issued by the second-instance court complies with the constitutional guarantees of judicial reasoning and due process, as it upheld the first-instance decision. To do so, the court carried out an analysis regarding the reasoned assessment of the evidence and applied the relevant laws regulating civil liability. Therefore, the cassation appeal is declared UNFOUNDED.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the plaintiff Marilyn Fasanando Vallejos.

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## JUDICIARY

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Judgment N° 2300–2021 HUANCVELICA

**Subject:** Compensation for Damages.

**Summary:** The superior court has appropriately determined the damage caused and the elements of responsibility, and has ordered compensation in this specific case in accordance with the principle of equity provided in Article 1332 of the Civil Code.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the defendants Marco Antonio Gamboa Delgado, Guillermo Quispe Torres, and Freddy Ángel Ruiz Apaclla.

## JUDICIARY

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Judgment N° 1496–2019 LIMA

**Subject:** Compensation for Damages.

**Summary:** There is insufficient and inconsistent reasoning, as there is no ruling on the grievances raised in the appeal, in accordance with the constitutional guarantee of reasoning in judicial decisions.

**Decision:** To declare FOUNDED the cassation appeal filed by the claimant the Public Prosecutor in charge of the Judicial Affairs of the Presidency of the Council of Ministers.

## JUDICIARY

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Judgment N° 2446–2021 LIMA

**Subject:** Unjust Enrichment.

**Summary:** In the unjust enrichment process, the plaintiff must prove the defendant's enrichment, the absence of a justified cause, and the plaintiff's impoverishment, according to Article 1954 of the Civil Code. Furthermore, the plaintiff must demonstrate that no other action could be taken to obtain the corresponding compensation, as prescribed in Article 1955 of the aforementioned code.

**Decision:** To declare UNFOUNDED the cassation appeal filed by INDUSTRIAS ELECTRO QUÍMICAS S.A.

## SUNAFIL

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Resolution N° 0790–2025–SUNAFIL/TFL–First Chamber

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by PRADIMPORT COMPANY S.A.C. against the Resolution of the Intendency N° 1600–2022–SUNAFIL/ILM, dated July 4, 2022, is declared UNFOUNDED.

**Decision:** To declare the revision appeal UNFOUNDED, filed by PRADIMPORT COMPANY S.A.C.



## SUNAFIL

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**Resolution N° 0789-2025-SUNAFIL/TFL-First Chamber**

**Subject:** Labor Relations – Labor Inspection.

**Summary:** The revision appeal filed by RACIONALIZACION EMPRESARIAL S.A. against the Resolution of the Intendency N° 144-2023-SUNAFIL/IRE-AQP is declared PARTIALLY FOUNDED. Consequently, the PARTIAL NULLITY of the Resolution of the Sub-Intendency N° 156-2023-SUNAFIL/IRE-SISA-AQP, dated February 20, 2023, and the subsequent acts and proceedings in the administrative sanction procedure related to sanction file N° 467-2022-SUNAFIL/IRE-AQP is declared.

**Decision:** To declare the revision appeal PARTIALLY FOUNDED filed by RACIONALIZACION EMPRESARIAL S.A.

## SUNAFIL

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**Resolution N° 0781-2025-SUNAFIL/TFL-First Chamber**

**Subject:** Labor Relations – Labor Inspection.

**Summary:** The revision appeal filed by CLUB DE REGATAS LIMA against the Resolution of the Intendency N° 1590-2022-SUNAFIL/ILM, dated September 30, 2022, is declared PARTIALLY FOUNDED. Consequently, the PARTIAL NULLITY of the Resolution of the Sub-Intendency N° 0903-2022-SUNAFIL/ILM/SISA3, dated August 3, 2022, and the subsequent acts or proceedings in the procedure are declared null and void due to the violation of the principles of due process and typicity.

**Decision:** To declare the revision appeal PARTIALLY FOUNDED filed by CLUB DE REGATAS LIMA.

## SUNAFIL

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**Resolution N° 0776-2025-SUNAFIL/TFL-First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by BANCO DE CREDITO DEL PERU against the Resolution of the Intendency N° 126-2023-SUNAFIL/IRE-CAL, dated May 31, 2023, is declared UNFOUNDED.

**Decision:** To declare the revision appeal UNFOUNDED filed by BANCO DE CREDITO DEL PERU.

## SUNAFIL

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**Resolution N° 0803-2025-SUNAFIL/TFL-First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by PROYECTO ESPECIAL REGIONAL PASTO GRANDE is PARTIALLY FOUND. Consequently, the Resolution of the Sub-Intendency N° 049-2023-SUNAFIL/IRE.MOQ/SISA, dated February 17, 2023, along with the subsequent acts and proceedings issued in the administrative sanctioning process in the sanctioning file N° 016-2017-SUNAFIL/IRE-MOQ, is declared NULL.

**Decision:** To declare the revision appeal PARTIALLY FOUND filed by PROYECTO ESPECIAL REGIONAL PASTO GRANDE.

## SUNAFIL

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**Resolution N° 0796–2025–SUNAFIL/TFL–First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by BANCO FALABELLA PERU S.A. is PARTIALLY FOUND. Consequently, the Resolution of the Intendancy N° 1537–2022–SUNAFIL/ILM, dated September 16, 2022, along with the subsequent acts and proceedings in the administrative sanctioning process in the sanctioning file N° 1424–2021–SUNAFIL/ILM, is declared NULL.

**Decision:** To declare the revision appeal PARTIALLY FOUND filed by BANCO FALABELLA PERU S.A.

## SUNAFIL

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**Resolution N° 0800–2025–SUNAFIL/TFL–First Chamber**

**Subject:** Labor Relations – Labor Inspection.

**Summary:** The revision appeal filed by BOXER SECURITY S.A. is PARTIALLY FOUND. Consequently, a PARTIAL NULLITY of the Sub-Intendancy Resolution N° 1188–2021–SUNAFIL/ILM/SIRE5, dated November 12, 2021, issued in the present administrative sanctioning process, in the sanctioning file N° 167–2021–SUNAFIL/ILM, is declared.

**Decision:** To declare the revision appeal PARTIALLY FOUND filed by BOXER SECURITY S.A.

## SUNAFIL

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**Resolution N° 0793–2025–SUNAFIL/TFL–First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by the TRUJILLO TAX ADMINISTRATION SERVICE – SATT against Intendancy Resolution N° 203–2023–SUNAFIL/IRE-LIB, dated June 15, 2023, is REJECTED.

**Decision:** To declare the revision appeal REJECTED filed by the TRUJILLO TAX ADMINISTRATION SERVICE – SATT.

## SUNAFIL

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**Resolution N° 0802–2025–SUNAFIL/TFL–First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by the REGIONAL SPECIAL PROJECT PASTO GRANDE is PARTIALLY ACCEPTED, and as a result, Subintendency Resolution N° 050–2023–SUNAFIL/IRE.MOQ/SISA, dated February 17, 2023, issued in the present administrative sanctioning procedure in file N° 017–2017–SUNAFIL/IRE-MOQ is CANCELED.

**Decision:** To declare PARTIALLY ACCEPTED the revision appeal filed by the REGIONAL SPECIAL PROJECT PASTO GRANDE.

## SUNAFIL

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**Resolution N° 0797–2025–SUNAFIL/TFL–First Chamber**

**Subject:** Labor Inspection.

**Summary:** The revision appeal filed by COBERTURAS PLASTICAS S.A. is PARTIALLY ACCEPTED, and as a result, Subintendency Resolution N° 006–2023–SUNAFIL/IRE–CAL/SISA, issued in the present administrative sanctioning procedure in file N° 909–2021–SUNAFIL/IRE–CAL, is CANCELED.

**Decision:** To declare PARTIALLY ACCEPTED the revision appeal filed by COBERTURAS PLASTICAS S.A.

## JUDICIARY

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**Judgment N° 28895–2022 CAJAMARCA**

**Subject:** Compensation for Damages.

**Summary:** Although the illegal termination of the plaintiff and their subsequent reinstatement under Law N° 27803 was determined, this law does not provide for the payment of compensation for damages caused by the delay in implementing the reinstatement benefit. This is contrary to the nature and purpose of the law, which aims to compensate for irregular terminations, considering budgetary constraints and the availability of vacant positions in the public sector.

**Resolution:** To declare UNFOUNDED the cassation appeal filed by the Public Ministry.

## JUDICIARY

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**Judgment N° 22561–2023 LIMA**

**Subject:** Payment of Social Benefits.

**Summary:** Municipal inspectors working for municipalities must be considered employees due to the nature of the work they perform. Therefore, they must be subject to the labor regime regulated by Legislative Decree N° 276, the Law on the Bases of the Administrative Career and Public Sector Remunerations, and by Law N° 30057, the Civil Service Law.

**Resolution:** The cassation appeal filed by the plaintiff, Mario Ángel Larrea Linares, is declared UNFOUNDED.

## JUDICIARY

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**Judgment N° 50723–2022 CAJAMARCA**

**Subject:** Replacement and others.

**Summary:** The labor regime for the workers of the Regional Government is determined based on the temporary application of Laws N° 27867 and N° 30889. That is, it will be public for the period from November 19, 2002, to December 22, 2018, and private starting the day after the latter date.

**Decision:** To declare FOUNDED the cassation appeal filed by the plaintiff Ruth Noemi Chávez Zelada.

## JUDICIARY

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### Judgment N° 18958–2023 DEL SANTA

**Subject:** Non-compliance with labor laws.

**Summary:** Municipal workers performing security duties are subject to the labor regime of the private sector, in accordance with Article 37 of Law N° 27972, the Organic Law of Municipalities, in line with what is established in Cassation N° 7945–2014–CUSCO and the VI Supreme Judicial Plenary on Labor and Pension Matters.

**Decision:** To declare FOUNDED the cassation appeal filed by the plaintiff Yovany Merino Merino.

## JUDICIARY

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### Judgment N° 9860–2023 LIMA

**Subject:** Payment of social benefits and others.

**Summary:** An employee is one who does not apply their effort directly to the material, meaning they do not work with materials as a laborer does, but instead, handles symbols such as oral or written language, formulas, rules, diagrams, among others. However, this does not mean that intellectual work does not involve physical effort, nor that manual labor does not involve intellectual activity in some way. What matters, to distinguish one from the other, is the predominance of one activity over the other. If intellectual activity prevails, we are dealing with an employee; if, on the other hand, manual activity prevails over intellectual, we are dealing with a laborer.

**Decision:** To declare FOUNDED the cassation appeal filed by the plaintiff Máximo Manuel Muñoz Álvarez.

## JUDICIARY

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### Judgment N° 28812–2023 DEL SANTA

**Subject:** Payment of social benefits and others.

**Summary:** The employee's burden of proof is limited to demonstrating the element of the employment contract that is most easily proven, which is the provision of services that triggers the presumption of an employment relationship. This presumes the existence of an indefinite-term continuous employment contract, and shifts the burden of proof to the employer, who must disprove the presumed employment relationship.

**Decision:** To declare FOUNDED the cassation appeal filed by the plaintiff Jhonny Briceño Ángeles Gonzáles.

## JUDICIARY

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### Judgment N° 39578–2023 LIMA NORTE

**Subject:** De-naturalization of contract.

**Summary:** An employee is one who, in one way or another, does not apply their effort directly to the material or to the machine or tool that works on the material, as a laborer does.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the plaintiff Wilmer Humberto Quiroz Cumpen.



## JUDICIARY

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Judgment N° 26727-2023 LA LIBERTAD

**Subject:** Payment of social benefits.

**Summary:** The duties of a video surveillance camera operator fall under the category of laborer because their function, regardless of the tool used, is related to the activity of surveillance, which involves predominantly manual tasks, just like a security guard on foot who provides surveillance services on public streets.

**Decision:** To declare FOUNDED the cassation appeal filed by the plaintiff James Julio Miñano Guillermo.

## JUDICIARY

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Judgment N° 35309-2022 JUNÍN

**Subject:** Payment of conventional benefits.

**Summary:** In accordance with Article 42 of Supreme Decree N° 010-2003-TR, the collective agreement binds the parties on whose behalf it was made and those to whom it is applicable, as well as workers who join the companies covered by the agreement, with the exception of those workers who hold management positions or perform trusted roles.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the defendant, the District Municipality of El Tambo.

## JUDICIARY

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Judgment N° 39291-2022 LIMA

**Subject:** Non-compliance with labor laws.

**Summary:** In collective bargaining matters, the union that affiliates the absolute majority of the workers within its scope assumes the representation of all of them, even if they are not members, according to Article 9 of Supreme Decree N° 010-2003-TR. Therefore, the outcome of the collective bargaining process has general effects and binding effects, regardless of the workers' affiliation within the respective scope.

**Decision:** To declare UNFOUNDED the cassation appeal filed by the plaintiff Pastor Apaza Huanca.



# Reports

## MTPE

### REPORT N° 103-2025-MTPE-2-14.1

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**Subject:** Request for technical opinion on the extension of collective agreement benefits and their impact on union rights.

#### Conclusion:

- The queries answered by the Labor Standards Directorate through a technical opinion refer to general criteria on the scope of labor legislation. Therefore, this does not resolve or address specific cases, as these must be handled by the competent administrative or judicial bodies according to the applicable legal framework.
- Freedom of association is the right of every worker to organize collectively, to establish collective entities as a prerequisite for union activity.
- The union actions carried out by the employer must be analyzed on a case-by-case basis, as they can manifest in a variety of situations that may infringe upon the workers' right to freedom of association.
- The outcome of collective bargaining, in relation to the legitimacy of a minority union, will be limited. Therefore, the clauses will only apply to the workers who are members of the union.
- Finally, this Directorate recommends considering the technical opinion contained in Report N° 000029-2025-MTPE/2/15.1, issued by the Directorate for the Promotion and Protection of Labor Rights of the MTPE, regarding the right to freedom of association and the extension of benefits of a minority union's collective agreement.

## MTPE

### REPORT N° 059-2025-MTPE-2-14.1

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**Subject:** Technical opinion on severance compensation for high-ranking officials.

#### Conclusion:

- The Labor Standards Directorate points out that the labor regime of the private sector lacks an express and specific mandate regulating severance compensation for the dismissal of senior management in private sector labor relations.
- In response, judicial doctrine, through various rulings from the Supreme Court of Justice as well as the Constitutional Court, has attempted to address this issue.
- Such rulings and others have been considered by the Labor Standards Directorate in the technical opinion issued through Report N° 145-2019-MTPE/2/14.1 on severance compensation for unjust dismissal due to the withdrawal of trust, which includes managerial workers. Therefore, the aforementioned report is attached for your information and relevant purposes.
- Additionally, it should be noted that, following the previously mentioned technical opinion, in Labor Cassation N° 25139-2022, the Second Chamber of Constitutional and Social Law of the Supreme Court of Justice of the Republic adopted the conclusions of the VII Supreme Judicial Plenary, reaffirming its position. In this regard, the aforementioned cassation is also attached.
- Finally, while the Labor Standards Directorate has the competence to issue opinions on labor relations in the private sector, it is SERVIR, which oversees the SAGRH, that is responsible for issuing binding technical opinions within its scope of competence.

## MTPE

### REPORT N° 099-2025-MTPE-2-14.1

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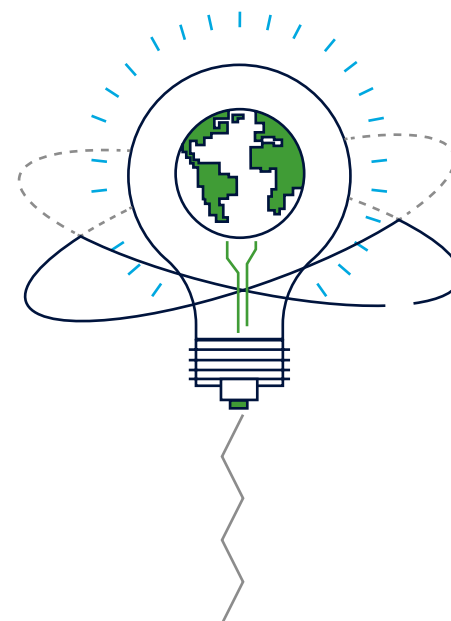


**Subject:** Draft ministerial resolution approving the update of Annexes 1 and 2 of Supreme Decree N° 002-2023-TR, Telework Law Regulation, for the year 2025.

#### Conclusion:

- Articles 19 and 20 of Law N° 31572, the Telework Law, established that the Regulation of the Telework Law specifies how compensations that the employer must provide for the provision of equipment and expenses for internet access and electricity consumption are determined and made.
- Article 23 of Supreme Decree N° 002-2023-TR, the Telework Law Regulation, establishes that for internet access services, compensation for this expense is made based on the reference values necessary for providing the service, as outlined in Annex 1, provided that the services are performed at the home of the teleworker. In the case of electricity consumption, compensation for this expense is made based on the reference values of the cost of the service, as outlined in Annex 2, unless otherwise agreed, provided that the services are performed at the home of the teleworker.
- According to the Third Final Complementary Provision of Supreme Decree N° 002-2023-TR, the Telework Law Regulation, the MTPE, within its functions and in coordination with the competent entities, annually approves, by Ministerial Resolution, the update of Annexes 1 and 2 for the compensation of internet access services and electricity consumption referred to in Article 23 of the regulation.

- In accordance with the aforementioned mandate, this Directorate proposes the present draft ministerial resolution, which approves the update of Annexes 1 and 2 of Supreme Decree N° 002-2023-TR, the Telework Law Regulation, for the compensation of internet access services and electricity consumption referred to in Article 23 of the aforementioned regulation.
- It should be noted that this draft resolution is exempt from the Ex Ante AIR, and does not require the pre-publication established by regulation for receiving comments.



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