



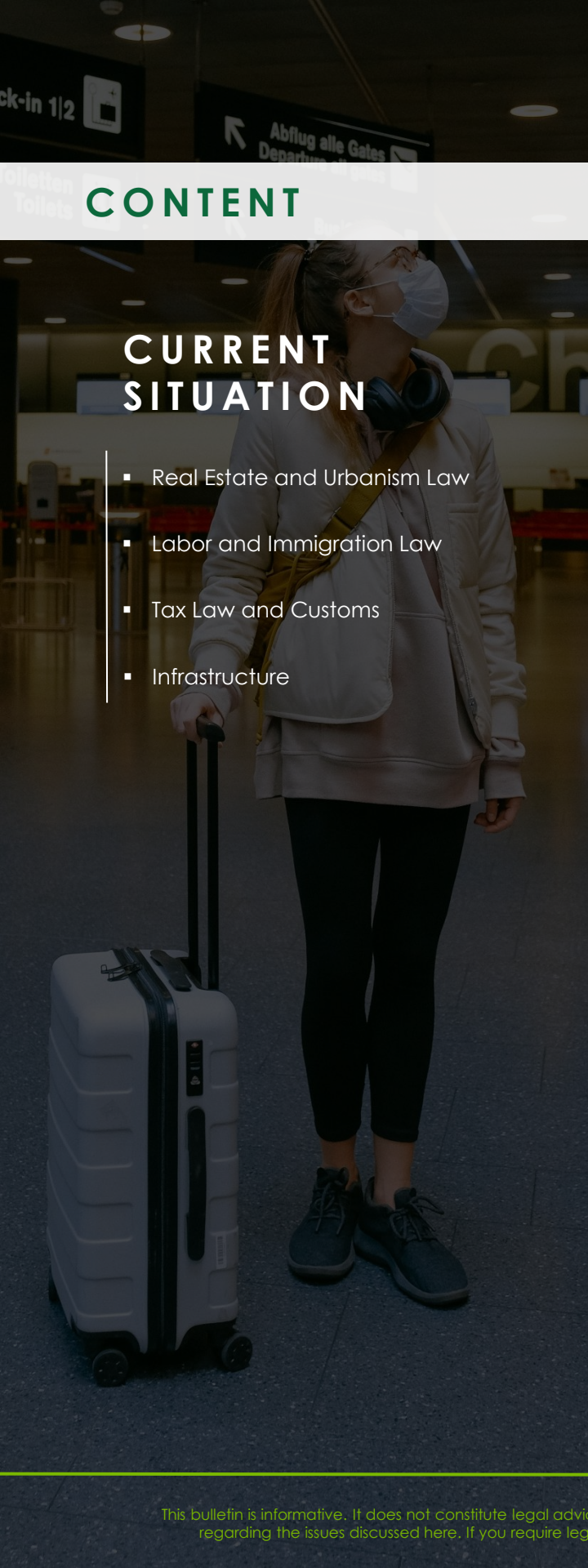
# INFORMATIVE BULLETIN ABOUT CORONAVIRUS

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29 | MAY | 2020



POSSE | HERRERA | RUIZ



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- Real Estate and Urbanism Law
- Labor and Immigration Law
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- Infrastructure

### INFORMATIVE BULLETIN:

## CORONAVIRUS

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## REAL ESTATE AND URBANISM LAW

### Operation and circulation restrictions in Bogotá (Decree 128 of 2020)

On May 24, 2020, the Mayor's Office of Bogotá D.C. Decree 128 issued. The Decree contains several measures for the resumption of economic activities in the city and reiterates several of the measures set forth in Decrees 121 and 126 of 2020. The following are the most important points:

#### (1) Reactivation plans and protocols

If your company wishes to resume work, or is already operating under any of the initial exceptions to mandatory preventive isolation, you must:

- a. Verify that your activity is on the list of activities allowed during mandatory preventive isolation. The Mayor's Office has established an exhaustive list of economic activities, stating them by its code of the International Standard Industrial Classification, ISIC. The list can be consulted [HERE](#).
- b. Prepare the biosecurity protocols required by the district administration. The basic instructions for preparing these protocols can be found [HERE](#). The protocols must be prepared according to the guidelines that the Ministry of Health has established for each economic sector.
- c. Fill out the corresponding economic reactivation form, which can be accessed [HERE](#). The form is available.
- d. Fill out the form of the safe mobility plan ("PMS"), which can be accessed [HERE](#). There you must report a census of all your employees (including those on telework), indicating identification cards, age, gender, working day, place of residence, means of transportation and destination work site. At this point, it is important to prioritize different means of transportation than the SITP.
- e. Both the registration of the biosafety protocols and the safe mobility plans will be understood as rendered under the oath.

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Once the protocols, the PMS and the economic reactivation form have been filed, the district administration will send by email the authorization to, as appropriate, resume or continue activities.

The Decree provides that operating without authorization is a conduct punishable by the temporary suspension of the activity of the establishment. The Mayor's Office will carry out random and selective follow-up visits to verify compliance with the biosafety protocols and the mobility plan.

We highlight that, in any case, the deadline to file the economic reactivation form, along with the PMS and the biosafety protocols, expires on June four (4).

### (2) Symptom Report

All employers must report daily, through the same reactivation platform and line 123, if any of the workers have COVID-19 related symptoms (fever, dry cough, difficulty breathing, feeling of shortness of breath or others). If one of the workers has such symptoms, the employer will not allow him to carry out his work. The worker must remain at home for a period of not less than eight (8) days.

### (3) Shifts

General rule. The following general shifts of operation are reiterated, depending on the economic sector of your company or establishment:

a. Construction Sector: Work only between 10:00

am - 07:00 pm. Public works and road infrastructure activities are excepted from these hours.

b. Commerce Sector: Work only between 12:00 am and 11:59 pm.

c. Manufacturing Sector: Staggered entry of workers between 10:00 am and 5:00 am.

Exceptions. The Decree allows various sectors to work without time restrictions, as long as their workers prioritize the use of different means of transport than the SITP. These sectors correspond to, among others, activities of production, manufacture, extraction or trade of (as appropriate) food, beverages, medicines and pharmaceutical products, plastics and construction supplies, fuel, minerals, agricultural raw materials, or sports and home. The exhaustive list of these activities excepted from the time restriction can be found [HERE](#). In any case, these activities must comply with the Biosecurity Protocols and PMS registry.

### (4) Suspension of terms

The terms of all administrative, disciplinary and sanctioning actions are suspended until 00:00 hours on June 1, except for those actions of contractual nature. However, district entities may resume proceedings in cases where it is possible to continue the service, guaranteeing due process.





## LABOR AND IMMIGRATION LAW

### Questions and answers about the Formal Employment Support Program (PAEF)

#### 1. What is the PAEF?

It is a program that establishes the recognition of a State contribution for the payment of payrolls whose amount will correspond to COP \$ 351,000 for each formal employee.

The PAEF will be in force during the months of May, June and July 2020.

#### 2. Who can be beneficiaries of the PAEF?

Legal entities, natural persons as employers, non-profit entities, consortiums and temporary unions may be beneficiaries.

#### 3. What requirements must legal entities meet in order to request the PAEF contribution?

- i. Have been established before January 1, 2020;
- ii. Have inscription in the commercial register carried out or renewed at least in the year 2019;

- iii. Demonstrate a decrease in income of 20% or more;
- iv. Not have a participation of the nation greater than 50% of its capital;
- v. Have a deposit product in a financial entity supervised by the Financial Superintendence or by the Superintendence of Solidarity Economy.

#### 4. What additional specific requirements must non-profit entities fulfil in order to request the PAEF contribution?

- Be enrolled in the RUT.
- Be required to declare income or file a declaration of income and wealth, as well as to transmit exogenous information for the taxable year 2019.

#### 5. What additional specific requirements must consortium and temporary unions fulfil in order to request the PAEF contribution?

- Be enrolled in the RUT.
- It cannot be applied by the workers repor-



ted through the legal or natural persons that make up the consortium or the temporary union.

## **6. What requirements must natural persons meet in order to request the contribution from the PAEF?**

- Have at least three (3) employees reported in PILA corresponding to the contribution period of February 2020.
- Not be Politically Exposed Persons (PEP) or be a spouse, permanent partner or relative in the second degree of consanguinity, first of affinity or only civilian of a PEP.
- Be registered in the commercial register before January 1, 2020

## **7. How is the decrease in income calculated?**

To calculate the decrease in income, any of the following methodologies can be applied:

- a. Compare the income of the month immediately prior to that of the application with the same month of 2019.
- b. Compare income for the month immediately preceding the month of application with the arithmetic average of income for January and February 2020.

## **8. What is meant by formal employees?**

For purposes of the PAEF, formal direct employees are understood to be those who accomplish the following requirements:

- Dependent workers for whom the beneficiary has contributed the full month (prior to the application) through PILA.

- That the quotation has been made by an IBC for at least one (1) SMLMV in the month prior to the application.
- That the novelty of temporary suspension of the employment contract (SLN), including, unpaid leave, has not been applied to them in PILA.

## **9. Will you give me support to pay the apprentices in the teaching or practical stage?**

No, because they are not employees.

## **10. Will you give me support to pay the practitioners?**

No, because they are not employees.

## **11. What is meant by the number of formal employees?**

- It will correspond to the number of direct employees reported in PILA in the month prior to the application.
- The formal employees that will be considered for the calculation must correspond 80% to the workers reported in PILA in February 2020.
- In no case, the number of workers to calculate the value of the contribution may be greater than the number of workers reported in PILA during the month of February 2020.
- For the PILA forms for the month of February 2020, only those submitted before May 8, 2020 will be considered.

## **12. How will the UGPP determine the number of formal employees for whom the contribution will be recognized?**

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- First, the UGPP will compare the number of workers reported in the PILA form for the month of February 2020 with the workers reported in the PILA form for the month immediately prior to the application.
- Secondly, the UGPP will verify the coincidence of the identity of the workers between the two PILA forms mentioned above.
- If the number of matching workers is 100%, the UGPP will approve the contribution for all matching workers.
- If the number of matching workers is not 100%, the UGPP will apply an arithmetic formula called "Potential Quota" which is the following:

$$(\text{Number of matching workers} * 100) / 80$$

The number of aid may NOT exceed the number of workers reported in the PILA form for the month of February or the number of workers reported in the form for the month immediately prior to the application for the PAEF.

## 13. How is the application process to request the PAEF contribution?

- The beneficiary must apply to the financial institution in which he has a deposit product.
- The Legal Representative must fill out and sign the standardized application form established by the UGPP.
- The Legal Representative and the Statutory Auditor shall fill out and sign the annex to the standardized form called "Certification of compliance with requirements"

## 14. What type of signatures are valid for the completion of the standardized form and its annex?

- Digital signatures, mechanical handwritten, digitized or scanned will be valid.

## 15. Do I have to apply through the same bank where the employees' payroll accounts are?

No.

## 16. Can I apply every month through a different financial institution?

No. You must select a single entity and in that same make all the applications.

## 17. Is it necessary to provide a copy of the social security contribution payment forms?

No, it is enough that the number of the PILA forms through which the payment of contributions of the month prior to the application was made is indicated in the standardized form.

## 18. What is the step-by-step process?

- The applicant fills and submits the standardized form and its annex to the financial institution.
- The financial entity verifies that the information on the standardized form and its annex is complete and verifies the identity and quality of the signatories.
- The financial institution loads the information of the applicant in the system enabled by the UGPP.
- The UGPP sends an email to the financial institution confirming the upload of the information.

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- The UGPP proceeds to determine the number of formal employees for which the contribution of the PAEF will be recognized. For such purposes, it will compare the PILA forms for the month of February 2020 and the month prior to the application with the criteria described above.
- Once this process has been carried out, the UGPP uploads the response to each request to the system so that it can be consulted by the financial entity. If the request is denied, the UGPP will inform the reasons for the rejection of the request.
- Once the response from the UGPP has been received, the financial institution must send a collection account for the total value of the contribution guaranteed by the UGPP.
- Then the amounts corresponding to the financial entity will be recorded.
- Once the appropriation is received, the financial entity will have one (1) business day to transfer the resources to the beneficiary.

## 19. Will I be able to know which of the employees were considered for the PAEF?

Yes. The UGPP will deliver this information to the Bank so that it can share it with the applicant.

## 20. What are the dates established for the PAEF process?

Process Schedule				
Application month	Application dates	Date for the financial entity to send the information to the UGPP	UGPP verification process and response to the request	Dates for issuing collection accounts from the financial institution to Banco de la República (Ministry of Finance)
May	From May 22 to 29, 2020	From May 24 to 30, 2020	From May 28 to June 03, 2020	From May 29 to June 04, 2020
June	June 17, 2020	June 19, 2020	June 23, 2020	June 24, 2020
July	July 16, 2020	July 21, 2020	July 27, 2020	July 28, 2020

## 21. What should be taken into account if, at the time of application and during the term of the PAEF, you are simultaneously a beneficiary of the payroll credit lines guaranteed by the National Guarantee Fund?

- The application process must be carried out before the same financial institution with which you have the credit line.
- When the sum of the resources received in the same month (credit plus PAEF) exceeds the value of labor obligations, the value of the contribution received through the PAEF must be credited.

## 22. What are the grounds for reimbursing the contribution eventually recognized through the PAEF?

- When having received the contribution, the requirements to be a beneficiary were not met.
- When falsehood is verified in the documents presented to access the benefit.
- When the beneficiary, having promised to pay the wages due in April, has not fulfilled that commitment.

## 23. If I apply to the PAEF and they give it to me, do I have a commitment to keep the employment contract of the worker whose support was paid to me beyond the month of application?

No.

## 24. What is the PAEF Regulation?

- [Decree 639 of 2020](#)
- [Decree 677 of 2020](#)
- [Resolution 1129 of 2020](#)
- [Standardized form and annex issued by the UGPP](#)

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## TAX LAW AND CUSTOMS

### **Exclusion of VAT for leasing of commercial establishments and special VAT exemptions**

In the framework of the state of Economic Emergency, the National Government issued Decree 682 of 2020, establishing (i) a special exemption from VAT for certain goods and (ii) a temporary exclusion of VAT for leasing of commercial premises.

#### Special VAT exemption:

For three days the following goods and merchandise, which are alienated within the national territory, will be exempt from VAT:

1. Wardrobe and wardrobe accessories with sale price equal to or less than \$ 712,140.
2. Appliances with a sale price equal to or less than \$ 2,848,560.
3. Sports items with a sale price equal to or less than \$ 2,848,560.
4. Toys and games with a sale price of \$ 356,070 or less.
5. School supplies with a sale price equal to or less than \$ 178,035.

6. Goods and supplies for the agricultural sector with a sale price equal to or less than \$ 2,848,560.

This special VAT exemption will apply on June 19, July 3 and July 19.

For the origin of the VAT measure, the person responsible must comply with certain requirements regarding the method of sale and the method of payment. The person responsible for VAT will have the right to request discounted taxes, as long as it meets certain requirements.

#### VAT exemption for leasing of commercial establishments:

The fees for the lease or assignment of commercial spaces, caused and invoiced between May 21 and July 31, 2020, will be excluded from VAT. The requirements for VAT exclusion are as follows:

1. It must be about leases or concessions of premises or commercial spaces.

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2. Before the declaration of a state of sanitary emergency, the commercial establishments or commercial space must be open to the public.
3. The activities carried out in the establishments or commercial space were necessary and primarily associated with the concurrence of clients.
4. During the health emergency, the premises or commercial space must have been closed to the public, totally or partially, for two (2) weeks or more.

## Deferral and relief in the payment of land taxes

In the framework of the expansion of the Economic Emergency caused by COVID-19, the National Government issued Decree 678 of 2020, establishing measures that enable territorial entities to make transitory decisions on the collection of territorial taxes.

Among the measures adopted is the authorization to territorial entities to defer up to twelve (12) months the payment of territorial taxes, such as the unified property tax, the industry and commerce tax and vehicle tax.

Additionally, the National Government empowered the territorial entities to take measures to alleviate the situation of taxpayers with outstanding obligations for taxes, fees, contributions and fines through the following mechanisms:

- Until October 31, 2020, 80% of the capital will be paid without interest or penalties.
- Between November 1, 2020 and until December 31, 90% of the capital will be paid without interest or penalties.

- Between January 1, 2021 and until May 31, 2021, 100% of the capital will be paid without interest or penalties.
- The aforementioned measures may be applied to obligations in the administrative or judicial discussion stage.

## New District Tax Deadline Extension

The deadlines to pay district taxes will start in August 2020.

In the framework of the contingency generated by COVID-19, the District Secretary of Finance announced a new extension of the deadlines for submitting and paying industry and commerce tax and property tax. The new deadlines to file and pay these taxes are as follows:

### 1. Industry and commerce:

- Second two-month period (March - April): until August 31, 2020.
- Third two months (May - June): until October 16, 2020.

### 2. Unified property tax:

- With a 10% discount: until August 14, 2020.
- No discount: until September 11, 2020.





## INFRASTRUCTURE

### Decree 683 of 2020

The Ministry of the Interior adopts measures related to the approval of the Territorial Development Plans for the constitutional period 2020-2023:

- The Development Plans that were not presented in a timely manner, may be submitted by the governors and mayors to the consideration of the respective assembly or council until June 15, 2020.
- The Development Plans presented to the respective assemblies and councils as of April 30, 2020, may be subject to modifications by the governors and mayors due to the effects derived from the pandemic of the new Coronavirus COVID-19 until June 15 2020.
- Only if the respective governor or mayor agrees to any of the terms provided above, the assembly or council must decide on the Territorial Development Plans until July 15, 2020.

- For these purposes and if that is possible, the respective governor or mayor will call extraordinary sessions of the corresponding assembly or council. If that period elapses without adopting any decision, the governor or mayor may adopt them by decree.
- The mayors and governors may adopt the Citizen Security and Coexistence Plans for the constitutional period 2020 - 2023, the month following the date of approval or adoption of the respective Territorial Development Plan.

Source: [Ministry of the Interior](#)

### Decree 639 of 2020

The validity of Decree 636 of May 06, 2020 is extended "by which instructions are given under the health emergency caused by the Covid-19 Coronavirus pandemic, and the maintenance of public order" and the measures established are extended 11:59 p.m. on May 31.

Source: [Presidency of the Republic](#)



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## Agreement PCSJA20-11556

The Consejo Superior de la Judicatura extends the suspension of judicial terms in the national territory, from May 25 to June 08, 2020, and extends its exceptions to the following:

In relation to the guarantee control function:

- Provisional or definitive delivery of motor vehicles of article 100 of Law 906 of 2004, hearing that will take place virtually.
- Provisional protection measures for victims of domestic violence crimes, a hearing that will take place virtually.
- Judicial and legality control in the application of the principle of opportunity, a hearing that will take place virtually.

In civil matters:

- The processing and decision of appeals and complaints filed against judgments and orders, as well as appeals.
- The processing and resolution of appeals and complaints filed against judgments and orders, as well as appeals.
- The processing and resolution of appeals

filed against orders and judgments issued by administrative authorities exercising jurisdictional functions.

- The lifting of precautionary measures subject to registration.
- The liquidation of credits.
- The completion of execution processes for full payment of the obligation.

In family matters:

- Anticipated sentences in the terms of article 278 of the General Process Code.
- Flat sentences in the terms of number 4 of article 286 of the General Process Code.
- The processing and decision of appeals and complaints filed against judgments and orders, as well as appeals.

Finally, the resolution of conflicts or definitions of jurisdiction by the superior courts in specialized or mixed chambers, as appropriate, is included in the exceptions of this Agreement.

Source: [Consejo Superior de la Judicatura](#)

[You can consult in this link an updated regulatory matrix related with infraestructura and public law in Colombia.](#)

