



INFORMATIVE BULLETIN ABOUT CORONAVIRUS

08 | APRIL | 2020



POSSE | HERRERA | RUIZ

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COMPETITION AND CONSUMER PROTECTION LAW

Special measures against the administrative actions that are being carried out before the SIC

The Superintendence of Industry and Commerce ("SIC") issued Resolution No. 12169 of March 31, 2020, by which special measures to guarantee due administrative process and effective provision of the service by the authority are taken, in the framework of the State of Economic, Social and Ecological Emergency decreed by the National Government.

In accordance with the above, the authority issued different orders aimed at preventing the spread of the pandemic through social distancing and, in turn, guaranteeing the continuity and effectiveness of the services provided by the SIC.

The orders issued by the SIC are based on Article 6 of Decree 491 of March 28, 2020 issued by the President of the Republic, which provides that, until the Sanitary Emergency declared by the Ministry of Health and Social Protection remains in force, the administrative authorities may suspend the terms of the administrative actions, which will affect all the legal terms, including those established in terms of months or years.

In accordance with the foregoing, the SIC resolved

sanction and disciplinary actions, which are filed before all the SIC units, as well as the process of prior control of business integrations, from April 1, 2020 and until the validity of the decreed State of Economic, Social and Ecological Emergency. Within this period the legal terms will not run, including those of expiration of the sanctioning power of the administration. Said suspension will not apply in the following cases:

- Administrative actions related to the effectiveness of fundamental rights, especially the one in article 15 of the Political Constitution (Habeas Data); the adoption of precautionary measures and the initiation of actions in the field of Consumer Protection and Technical Regulations and Legal Metrology;
- The adoption of precautionary measures and the initiation of actions in the field of Protection of Free Competition related to the affectation of goods and services in the framework of the Economic, Social and Ecological Emergency;
- Administrative actions of a non-sanctioning nature and/or those of the advisory function provided for in the legal system, which allow their management through the electronic means provided by the SIC, with the exception

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of the procedures for requesting the renewal of distinctive signs and payment maintenance fees for New Creations;

- The corporate integration procedures that are currently in progress and in front of which all the necessary information has been collected; and
- In general, for all the actions that are necessary and must be carried out by the different SIC Delegations to ward off the crisis caused by COVID-19.

Lastly, the authority ordered to abide by the new terms established by article 5 of Decree 491 of 2020 to attend to the requests that are presented to the entity, while the State of Economic, Social and Ecological Emergency lasts. In this sense, except for a special rule, all requests must be resolved within 30 business days of receipt. Requests for documents and information must be resolved within 20 business days of receipt, and requests to authorities dealing with the matters under their charge must be resolved within 35 business days of receipt.





FINANCIAL LAW AND CAPITAL MARKETS

Measures adopted by the Basel Committee and the Financial Superintendence of Colombia regarding the economic emergency derived from COVID-19

In the framework of the pandemic caused by COVID-19 declared by the World Health Organization (WHO), the financial markets have been strongly affected with respect to the levels of liquidity available that allow for continuity in investment, loans and other financial operations that are required to avoid entering a recession. To this end, in addition to capital injections, lower interest rates and other measures adopted by the central banks of different countries, the Basel Committee announced on March 27, 2020 a series of measures aimed at providing additional operational capacity so that banks and their supervisors can react positively to the impact that COVID-19 has had on the global financial system.

Among the measures designed are: (i) delaying the date of definitive implementation of the new Basel III regulations corresponding to bank capital and reporting, for one year until January 1, 2023; and (ii) allow banks to adopt a new market risk framework, and make clearer disclosures about their liquidity and financing ratios.

In keeping with the above, and with the priority of committing resources to respond to the impact of

COVID-19, the Financial Superintendence of Colombia ("SFC"), on March 17, 2020, issued External Circular 009 of 2020, for through which (i) the sending of resolution plans related to the implementation of international standards was postponed until April 2021 for the following entities: Bancolombia, Banco de Bogotá, Banco Davivienda and BBVA Colombia, in accordance with the list of entities with systemic importance published in Circular Letter 088 of 2019; (ii) it was postponed the sending of the results of the stress tests that the SFC required through Circular Letter 23 of 2019, until the last business day of July 2021; and (iii) it was suspended, for 120 calendar days following March 17, 2020, the requirement to carry out technical appraisals of the suitable guarantees in the terms set forth in Chapter II of the Basic Accounting and Financial Circular.

The measures adopted by the Basel Committee will allow banks to allocate the resources that were intended to strengthen their solvency, to address the negative shock that COVID-19 has had in the global financial market. This allows banks to have greater liquidity, in order to promote financing to companies and households, since, through the measures implemented by the Basel Committee, supervisors will release credit capacity, reducing the capital reserves that will be required banks for scenarios in which losses on loans must be covered.

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Likewise, banks will be able to see the measures adopted as an opportunity to continue their preparation regarding compliance with the requirements set by the Basel Committee, in relation to the measurement of capital required to face operational risks, and also as an alternative to guarantee the correct financing to the real sector of the economy.

For its part, with the measures implemented by the SFC, it will be encouraged that the impacts derived from COVID-19 do not last over time and there is a timely reaction capacity so that the country's economic recovery will normalize in the second half of the year, foreseeing a decrease in the growth of COVID-19 in the national territory and in the region. To that extent, the increase in financing capacity by the financial sector in Colombia may lead to a positive impact on unemployment rates and the dynamism of financial operations within the national territory.

Similarly, the aforementioned measures contribute to other measures that have been adopted in this emergency context, such as (i) the financing package approved by the International Finance Corporation (IFC) aimed at mitigating the negative impact of COVID-19 on the global economy, by activating financing operations in order to promote

working capital and operational continuity of companies that have affected their supply chain; and (ii) the initiative and call for action of the World Bank Group and the International Monetary Fund regarding debt relief by the member countries of the G-20, to the poorest countries that are part of the International Development Association, to attend to emergencies related to COVID-19.

In accordance with the above, the measures adopted by the Basel Committee have as a priority to mitigate the contraction of world economic growth, through channels that will allow the development of financing mechanisms and guarantee a higher level of liquidity in the economy. Therefore, the banks will have an additional year to comply with the Basel accords so that they can concentrate their efforts on meeting the economic and local needs derived from COVID-19. It is relevant to highlight that the measure adopted by the Basel Committee must be addressed jointly with the other measures that most countries have adopted locally with regard to mitigating the negative impact on local economies. Therefore, the measures previously adopted by the SFC are in accordance with the local and global interest in establishing strategies that mitigate negative shocks on economic stability.





LABOR AND IMMIGRATION LAW

Resolution 1006 of 2020 of Migración Colombia

We hereby inform you that on April 1, 2020, Migración Colombia, through Resolution 1006, adopted new measures to guarantee the provision of services, as well as additional measures for the suspension of terms in processes and procedures advanced by the entity.

Taking into account the above, from the issuance of the aforementioned Resolution, requests for procedures and services that must be made in person before Migración Colombia are temporarily suspended, as well as all those procedures that starting by any electronic means (through of the completion of the Single Form of Procedures - FUT), require the presence of the foreign citizen in the entity installations for its completion.

Likewise, the issuance of the Special Permanency Permit for the Promotion of Formalization (PEP-FF) is suspended in person, which may be granted provisionally without prejudice to compliance with the requirements for that purpose determined in the Decree 117 of 2020. This suspension measure will apply until May 30, 2020 or earlier if the validity of the Health Emergency declared by the Ministry of Health and Social Protection is lifted.

Consequently, the procedures that are suspended in the terms indicated above are the following:

1. Issuance of the Immigration Certificate for the first time, renewal and duplication;
2. Foreign Registry for both minors and adults;
3. Temporary Permission to Stay to change permission;
4. Permanence extensions;
5. Certificates of Migratory Movements;
6. Certificate of Migratory Movements and Nationality;
7. Issuance of permanent and exit safe-conducts.

In relation to the entry and stay permits, authorizations or certificates that expire during the term of the Sanitary Emergency declared by the Ministry of Health and Social Protection, they will be understood to be extended until one (1) month after the overcoming of the Health Emergency. Within the month following the lifting of the Health Emergency, the holder of the permit, authorization or certificate must carry out the process for its renewal.

On the other hand, for those cases of possible migratory infractions that may derive from the expiration of the terms of validity of visas, entry permits or their extensions during the period of mandatory isolation decreed by the National Government through Decree 457 of 2020, or its extension, Colombia Migration will abstain from imposing sanctions as it is considered a sufficient reason to order the exemption and filing of

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administrative procedures.

Finally, and regarding administrative sanctioning actions that were underway before Migración Colombia, both against natural and legal persons, they will be suspended until May 30, 2020 or earlier if the validity of the Health Emergency declared by the Ministry of Health and Social Protection is lifted. In any case, it should be borne in mind that the administrative sanctioning actions that are in progress and that have the authorization of the natural or legal person for notification by email as established by Law 1437 of 2011, may follow their normal course until the decision.





TAX LAW AND CUSTOMS

Modification of deadlines for filing tax returns: Decree 520 of 2020

On April 6, Decree 520 was announced, through which the deadlines for filing the tax return for large taxpayers and legal entities were modified and important details were made on the way to determine the outstanding fees.

Big contributors

Large taxpayers should consider that there was no change regarding the payment schedule of the three income tax installments (modified by Decree 435 of 2020). However, the expiration date of the term to file the income statement was modified, since this obligation expired on the date of payment of the second installment (April and May), and will now expire on the date of payment of the third installment (June). The drafting of the decree is problematic because it seems to condition the new deadline for filing the income tax return to the payment of the second installment, which could raise doubts for those taxpayers who do not have the obligation to liquidate and pay it. A pronouncement from the DIAN is expected clarifying this aspect, since the new maturity schedule is intended to be applicable to all large taxpayers.

Another relevant aspect is related to the way of determining the installments which are pending of payment. Regarding the second installment, consider the following three scenarios in which your company could be found: (1) the first scenario established by Decree 520 is that large taxpayers will be able to settle the second installment as 45% of the value of the balance to be paid during the 2018 taxable year, which would only be applicable if the company existed during that year and such balance to be paid was generated; (2) The second scenario occurs when the taxpayer has prepared the income statement at the time of the payment of the first installment (February) and has determined with certainty that his statement yields a balance in favor, in which case it would be understood that there would be no place the payment of no fee (although the decree refers only to the first fee); (3) The third scenario would take place if the taxpayer files the return before the payment of the second installment, in which case he could take the tax to pay, subtract the value of the first installment, and pay 50% of the result as second installment.

Regarding the third installment, keep in mind that the alternatives depend on what the company decides regarding the second installment. In the first scenario, the third installment will be the

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balance pending payment at the time of filing the return. In the second scenario, it could be understood that there would be no place to settle the third installment (although the decree refers exclusively to the first installment). In the third scenario, the remaining 50% will correspond to the value to be paid for the third installment.

Another relevant aspect for large taxpayers was the change in the filing schedule for the annual declaration of assets abroad, which will now go from June 9 to June 24, 2020.

Legal persons

For the payment of income tax fees, legal entities must take into account that Decree 520 indicates two possible scenarios. On the one hand, if the taxpayer existed in the 2018 taxable year and his income statement returned a balance to be paid, the first installment of the income tax of the 2019

taxable year must be 50% of the balance to be paid of the income statement of the 2018. However, if the taxpayer files the income tax declaration before the payment of the first installment is due, this fee will be equivalent to 50% of the amount to be paid settled in this declaration.

The second installment would therefore correspond to the remaining value to complete the value of the tax charged.

It is important to highlight the modifications introduced to the calendar of expiration of presentation of the income tax declaration, since now the expiration will take place with the payment of the second installment in June and July.

Finally, it's important to notice that the change in the expiration of the annual declaration of assets abroad will run from June 1 to July 1, 2020.





INFRAESTRUCTURE

Presidency of the Republic

By means of a communication dated April 06, 2020, the President of the Republic Iván Duque announced that the mandatory preventive isolation declared in Decree 457 issued on March 22, 2020, will last until April 27, 2020.

In this regard, he stated that "after having worked with this team of workers, seeing their recommendations, seeing the trends, I want to call on all of us to make an additional effort for health, and it is the decision to maintain, after April 13, until April 27, the Mandatory Preventive Isolation".

Resolution 789 of 2020

The Special Administrative Unit of Civil Aeronautics (AEROCIVIL) issued Resolution 789 of 2020 in order to develop some articles of the Decree 482 of 2020.

- Article 1 and paragraph of Resolution 675 of 2006 are temporarily modified in relation to the amount of the bond.
- The payment terms of invoices generated by aeronautical and airport concepts are temporarily extended from the date of publication of this Resolution.

- The collection of the leasing fees of the spaces object of commercial exploitation located in the airports and non-concession airfields administered by the Aerocivil is suspended.

Joint Circular - Ministry of Health and Social Protection

The Ministry of Health and Protection and the Ministry of Transport issued a Joint Circular to provide guidance on preventive and mitigation measures to reduce exposure and contagion due to acute respiratory infection caused by Covid-19, addressed to the personnel of the projects of transport infrastructure that continue its execution during the health emergency.

- Each Project must adapt its biosafety, prevention and promotion protocol, in particular in accordance with the conditions given by municipal, departmental and national authorities, being articulated with occupational health and safety systems.
- Some general recommendations are given related to social distancing, handwashing, respiratory etiquette standards and execution of the essential operation with the least necessary workforce.

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- The representatives or people in charge of the construction must report any suspicion of symptoms or contact with diagnosed people, as well as establish daily control of the health status of workers to avoid symptoms of respiratory conditions and comply with protocols and actions of Covid-19 prevention.
- Information and signaling activities must be carried out with official sources through the use of networks and email, prevention measures, publication on billboards of the workplace and location of notices about the mandatory use of personal protection elements.
- The Legal Representatives of each project must inform the ARL of the protocol adopted and indicate aspects related to the exceptions that exist so that the personnel can work during the health emergency and must establish a protocol on how to proceed in the event of contagion with the municipal, departmental and national health authorities.
- An internal communication must be issued to all workers, allies, contractors and subcontractors of mandatory implementation of the measures of: information, personal hygiene, prevention, greeting, jobs and clean surfaces, vehicles, ventilated offices, distance, resources, meetings, training, social interaction and hydration.
- The operation scheme will be defined with work shifts with conditioned work stations so as not to establish personal contact, in wide open areas or with a ventilation system.
- There should be supplies for prevention with toilets located in all workplaces, which should be routinely disinfected and with the provision of sinks and antibacterial soap, have trained personnel in charge of cleaning activities, permanent disposition of disposable towels and toilet paper and location of sinks batteries at points at the entrance and exit of the work area.
- Exclusive bins for the management of ordinary and biological waste must be implemented in each work area.
- There must be an immediate attention station, first-aid kits, stretchers, basic ambulance and personnel. Likewise, having 1 leader for every 20 social, environmental, and occupational health and safety workers.
- Regarding the transportation and mobilization of personnel, it is mandatory to implement cleaning and disinfection activities for buses and vehicles every time people get off them and at the end of the working day, remove decorations from the vehicle, locate one worker per position, avoiding over fit and keep the vehicle ventilated.
- For the personnel who visit the projects, they must be trained on prevention and control measures, measure their body temperature, maintain a minimum distance of 2 meters with other people, wash their hands, avoid face-to-face meetings in the project, not share personal protection elements, reinforce cleaning, among others.
- Finally, it is up to each Contractor to request the accompaniment of the ARL to verify compliance with the protocol finally adopted in their project. Likewise, the Contracting Entity or the Auditors must carry out control and monitoring of the aforementioned measures, indicating in the reports the level of compliance with each of the measures and the action plans for their implementation.

Decree 106 of 2020

The Mayor of Bogotá issued a Decree in order to give continuity to the mandatory preventive isolation of all persons in the territory of Bogotá, from zero hours on April 13, 2020 and until zero hours on April 27, 2020, on the occasion of the health emergency caused by Covid-19.

Permitted activities are defined as those contained in District Decree 092 of 2020 and it is established that to carry out said activities the following condition will be met:

- Odd days can only mobilize people of the male sex.



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- Even days, exclusively female people can mobilize.

Colombia Compra Eficiente Statement

The National Agency for Public Procurement - Colombia Compra Eficiente, issued a statement to inform the obligation to register and validate the Code of National Investment Programs and Projects - BPIN in the electronic system for Public Procurement SECOP, in response to a request made by the National Planning Department and complying with the Concept issued by the General Comptroller of the Nation.

It will be applicable as of April 20, 2020, in all contractual processes that include resources from Investment Projects and whose source of financing comes from resources of the General Budget of the Nation and the General System of Royalties.

The same obligation will be applicable as of June 1, 2020 for contractual processes that have a source of financing with resources from the General Participation System and own resources (mayors, governments and indigenous reservations).

