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Global Tax Alert

News from EY Americas Tax

Panama issues decree to allow companies to request the temporary suspension of employment contracts due to COVID-19

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Panama published, in *Official Gazette* No. 28985-C, Executive Decree Law 81 of 2020 (the Decree), which establishes that employment contracts temporarily suspended because of COVID-19 fall under the causes of temporary suspension in numeral 8 of Article 199 of the Panamanian Labor Code. The Decree went into effect 21 March 2020.

Employment contracts with companies that have closed because of the preventative measures taken by Panama's Government to stop the spread of COVID-19 are considered suspended (for "employment effects") from the date on which closure was ordered. The General Directorate of Labor or the competent regional authorities, however, must authorize the closure.

The Decree establishes that, suspending the "employment effects" of employment contracts means that employees are not required to provide their services, and employers are not required to pay wages. However, the suspension of contracts does not imply their termination and will not affect the seniority of the employees. Employees whose employment contracts are suspended as a result of COVID-19 will be included in the lists of beneficiaries of the programs established by the Executive Branch to mitigate the lack of regular income, while the suspension lasts.

To request a suspension of employment contracts, the employer must file electronically the following documentation with the Ministry of Labor and Social Development (the Ministry):

1. Note or document justifying the suspension of employment contracts for one month (may be extended) that is signed by the legal representative of the company
2. Copy of the employer's company notice of operation
3. Copy of the company's last pre-prepared payroll for the Social Security Administration, before its closing
4. Proof of the economic impact
5. List of workers whose employment contracts are requested to be suspended, specifying their names, social security numbers, residential addresses, occupations, sex, ages, telephone numbers and emails and providing information from their personal identification cards

For such purposes, the Ministry will notify the workers union or the company's representation for its employees of the request for suspension of employment contracts. Also, the Ministry will authorize or reject the request for suspension of employment contracts within three days. If the suspension is granted, the company may receive notice electronically, in accordance with the provisions of Article 204 of the Labor Code.

The salaries of employees of companies that close without authorization from the Ministry or because of circumstances outside the scope of the Decree will be covered by the companies until the Ministry authorizes the suspension.

Companies may request the economic benefits under the state of national emergency one month after the Ministry authorizes the suspension. In accordance with the provisions of Article 205 of the Labor Code, once the state of national emergency ends, workers will return to their jobs under the same conditions established in the employment contract in force at the time of the suspension.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Limited Corp., Panama City

- ▶ Rafael Sayagués rafael.sayagues@ey.com
- ▶ Luis Eduardo Ocando luis.ocando@pa.ey.com
- ▶ Carlos Márquez carlos.marquez@pa.ey.com
- ▶ Ana Clement ana.clement@pa.ey.com

Ernst & Young LLP (United States), Latin American Business Center, New York

- ▶ Ana Mingramm ana.mingramm@ey.com
- ▶ Pablo Wejcman pablo.wejcman@ey.com
- ▶ Enrique Perez Grovas enrique.perezgrovas@ey.com

Ernst & Young LLP (United Kingdom), Latin American Business Center, London

- ▶ Lourdes Libreros lourdes.libreros@uk.ey.com

Ernst & Young Tax Co., Latin American Business Center, Japan & Asia Pacific

- ▶ Raul Moreno, *Tokyo* raul.moreno@jp.ey.com
- ▶ Luis Coronado, *Singapore* luis.coronado@sg.ey.com

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