CONTACT INFORMATION

OUTSOURCING CONTACTS
Partner:
Luz Marina Pérez
lperez@bdo.com.co
Senior Manager:
Yolanda Fernández
fernandez@bdo.com.co
Senior Manager:
Cediel Alexander Cifuentes
cifuentes@bdo.com.co

OTHER CONTACTS
Markets and Clients Director:
Paola Vacca
pvacca@bdo.com.co

CONTACT INFORMATION

www.bdo.com.co
comercial@bdo.com.co
T: (+57 1) 623 0199
C: (+57) 310 269 3620

ADDRESS:
Transversal 21 #98-05
Bogotá, Colombia

BDO Colombia SAS, is a simplified Colombian company, member of BDO International Limited, a company limited by guarantee from the United Kingdom, and is part of the BDO international network of independent partner firms.

BDO is the brand of the BDO network and of each one of the BDO member firms.

This publication has been carefully prepared, but has been written in general terms and should be seen only as a general guide. You can not trust that the publication covers specific situations and you should not act, or refrain from acting, on the information contained in it, without obtaining specific professional advice. Contact your local BDO firm to discuss these issues in the context of your particular circumstances. BDO Colombia SAS, its partners, employees and agents do not accept or assume any obligation or duty of care for any loss arising from any action taken or not taken by someone depending on the information in this publication or any decision based on it.
MARKET INSIGHTS & LOCAL OVERVIEW

Colombia’s economy is South America’s third largest, behind Brazil and Argentina. Its geographic diversity has provided the country with opportunities to invest in a large number of industries. As a result, many international businesses have their sights on Colombia as an open gate to South American market.

Colombia’s population is over 45 million and it has a GDP of around COP$282 billion. The country stays afloat through its main exports of oil, flowers and agriculture products.

Labor skill force in Colombia is well trained. A growing work age population increase during the next years, coupled with rising labor force participation rates, brings a positive landscape for employers to choose from.

There are several important points related to employment in Colombia, that must be taken into consideration by foreign investors and business owners who wish to set up their business operations in our country. Regardless of the nationality of the parties, all employment contracts are governed by Colombian law.

Both national and foreign employees are legally bound to join and contribute to the Integral Social Security System.

Colombian law stipulates payments that must be considered as part of the base salary -such as commissions and bonuses-, regardless of the willingness of the parties to settle an employment agreement.
GETTING STARTED

In principle, foreign companies cannot hire employees without setting up a branch or a subsidiary in Colombia. All entities need to fulfill payroll registration upon local regulators. Social Security Contributions are mandatory -both for the employer and employees- and depending on the employee’s income, payroll tax and withholding might also apply.

Backgrounds checks are permitted and is usual to hire specialized companies for this service. These checks might include educational history and professional qualifications, as well as employment history. There are certain limitations though, employers cannot request information on issues like drugs, pregnancy, health conditions, family situations or political tendency.

Medical entry exams are required as a pre-hiring process.
DIRECTORY

1. SALARY SCHEME
2. COMPENSATIONS
3. LEAVES
4. SOCIAL BENEFITS
5. LAW DEDUCTION
6. SOCIAL SECURITY CONTRIBUTIONS
7. TERMINATION
8. DATA PRIVACY
.SALARY SCHEME

.EMPLOYMENT CONTRACTS
.SALARY

Salary is a direct Compensation that employee gets for his services -it can be agreed as minimum or integral salary, in money and in benefit in kind, or for units of time. The salary as a benefit in kind is when the employer supplies a part of the salary in housing, wardrobe or meal allowances. This benefit cannot exceed 50%, and if the employee earns a minimum wage, it cannot overcome the 30% -it is necessary to assure the value in the contract.

Salaries in Colombia can be agreed under two schemes:

1. **Ordinary Salary**, under which salary and contributions are paid separately, results in approximately 51% of salary in employer contributions. The ordinary salary scheme is mandatory for salaries below 13 times the monthly minimum wage -approximately **COP$10,156,146** for 2018. If the proposed salary is equal or higher to that amount, an integrated salary scheme could be used. Employees under the ordinary salary scheme, are entitled to the following mandatory fringe benefits and payments -severance, interest of severance, June and December bonus, vacations, work cloths and transport allowance.

2. **Integrated Salary**, in which the mandatory benefits are deemed to be included pro-rata in the monthly salary payment, reduces the contribution to almost 30%. This option must be agreed upon with the employee in writing, and clearly stated in the employment contract.
EMPLOYMENT CONTRACTS

Labor contracts can be agreed as indefinite, fix-term or for the duration of a project. Written agreements are generally recommended.

Fix-term agreements cannot exceed three years but can be extend indefinitely. If duration of the contract is less than one year, it can be extended three times -with each renewal to or less than the initial term-, but after the third renewal, the contract can only be extended for periods of one year.

When a indefinite agreement is in place, a probationary period can be established of up to two months.

Other type of contracting might be use as independent contractor or agency worker. Restrictions apply for the last one.
.WAGES

.WORKING HOURS

.OVERTIME

.COMMISSIONS

.PERFORMANCE BONUSES

.TRANSPORTATION ALLOWANCE

.EXTRALEGAL PREMIUMS
WAGES

The minimum wage is determined by the Colombian Government every calendar year. The minimum wage for 2018 is COP$781,242 per month. The minimum wage is increased annually using the IPC (Consumer Price Index) as a reference.

WORKING HOURS

The Colombian Labor Code states that employees can work up to 48 hours per week and eight hours per day. Employees must have at least one paid day off every six days -which is usually Sundays.

OVERTIME

An employee may not be required to work more than two hours per day as overtime, or more than 12 hours in each week. The ordinary working day is from 6:00AM to 9:00PM. Overtime during the day, is paid at a rate of 25% on top of the ordinary hourly rate. The working night is from 9:00PM to 6:00AM. Workers who ordinarily work during these hours, must be paid 35% on top of the ordinary hourly rate. Overtime pay for night work is equivalent to 75% on top of the ordinary hourly rate.

Employers must have a special permit from the Ministry of Labor for overtime work.

Employees who perform functions of direction, trust, or management, as well as employees who are engaged in intermittent activities or in activities of simple vigilance at the workplace -such as security guards-, are excluded from the above rules regarding the maximum work day and overtime.
.COMMISSIONS

They are a direct retribution of the service provided by the employee to the employer. They are average basis for the calculation of social benefits, calculation of overtime and surcharges and vacation compensation, base of withholding tax and social security and contributions.

.PERFORMANCE BONUS

Labor payments done by employer's sole discretion for compliance with goals, merits or desires in their work. They are direct retribution of the service provided by the employee to the employer and are average basis for the calculation of social benefits, calculation of overtime, surcharges and vacation compensation, base of withholding tax and social security and contributions.

.TRANSPORTATION ALLOWANCE

It is annually regulated by the government, and for 2018 is COP$88,211. The employee is entitled to transportation allowance when it accrues less than 2 Monthly Legal Minimum Wages -LMW (COP$1,562,484). It is base for the calculation of benefits of Law (layoffs, interest/severance and premium). The employer can provide it in kind. In absenteeism, the employee has no right to this help.

.EXTRALEGAL PREMIUMS

They are payments by the employer's sole discretion, or as part of collective pacts or unions. It must be agreed in writing when these premiums are non-salary payments, for example, extralegal bonus for only re-employment or compliance with group goals -demonstrable-. They are taxable and for contribution to the Social Security, it must be determined if it exceeds the 40% of the monthly compensation in which they are paid to the employee.
LEAVES
LEAVES

.SICK PAY

.NON PAID LEAVE

.MATERNITY LEAVE

.PATERNITY LEAVE

.BEREAVEMENT

.VACATIONS

.LEGAL HOLIDAYS
SICK PAY

If an employee cannot work due to illness or an accident, a medical authorization from a Colombian Social Security Entity must be obtained. The employer pays sick pay during the employee's absence -for an indefinite period- but can claim this payment back from the Social Security System.

Sick leaves have the following rules:

If the leave originates from a common illness, the first two days of payment correspond to the employer and it's in their discretion whether to pay 100% or 66.67% of the value of the employee's day. The following days will be reimbursed by the health fund to the employer, at a rate of 66.67% of the last salary reported in the payment of Social Security. On the other hand, if the license is for an accident at work, the first day must be paid by the company and the following days by the Risk Fund, at a rate of 100% of the last salary reported in the Social Security payment. Lastly, sick leaves are an inalienable right of employees. The corresponding entities will reimburse the values of the leave days, after the presentation of the documents required for this process -this will vary depending of each health fund. Keep in mind that for common sickness licenses, there is a one-year period to submit the documentation to avoid losing the right to claim the economic benefits. This process is in charge of the employer.

NON PAID LEAVE

It can occur in the case of a permission granted for the employer (the former has the decisive factor to approve it or not), or in the result of a disciplinary process (held by labor consultants), in line with the Colombian Labor Code, job contract and work policies. During the time of these licenses, the employer must contribute 8.5% only for health care system, as for pension is recommended to provide the full 16% to foresee contingency in case of a survivor or disability pension. These suspensions, disrupt the employment contract for the time of the license, which implies non-payment of social benefits by severances and vacations.
**MATERNITY LEAVE**

Paid maternity leave for every pregnant or adoptive mother employee in Colombia, is granted for 18 weeks. Mothers are entitled to one week before childbirth and 17 weeks after. For medical reasons, the mother can have two weeks before childbirth or postpartum, which means that the maternity leave will last 18 weeks after childbirth. Adoptive mothers and fathers in charge of newborns, are also entitled to this maternity leave in case of sickness or death of the mother. The employee must receive the wage reported in the last payment of Social Security.

Keep in mind that maternity leaves are an inalienable right of the employees, and during this period and the pregnancy, the employee cannot be lay-off as a mechanism to reinforced labor stability. Reimbursements process for paid maternity leaves upon social security entities, are under the employer's responsibility. The employee must submit the medical attestation and the child birth certificate within the first six months of the child's age.

When the maternity leave comes to an end, the employer must grant the worker two 30-minute paid breaks during the day to breastfeed her child.

Maternity leave also applies for adoption cases. In addition to this, the employer must grant paid leave so that the employee can attend medical check-ups and provide appropriate work clothes if the employee is eligible for this social benefit (in case his salary does not exceed two Legal Minimum Wage).
.PATERNITY LEAVE

Every worker on paternity leave, is entitled to eight business days counted from the day of childbirth. Social security entities will make the reimbursements of the leave, after the employee submit the medical attestation and the child birth certificate -this must be done within the first six months of the child's age. Paternity leaves are an inalienable right of the employees.

.BEREAVEMENT

The employee must be granted five working days of paid leave from the employer, from the day of the death of his or her spouse, common-law partner, or a relative up to the second degree of consanguinity, first affinity and first degree. Previous submission of the death certificate is required. Grief absence is an inalienable right of the employee.

.VACATIONS

The employee is entitled to 15 business days of vacation per year and proportional to a fraction of a year. Vacations must be paid at the time when the employee starts them, previously authorize by the employer, and it must be guaranteed a minimum enjoyment time of six continuous business days. By law, these can also be paid in money for each caused period up to seven days. The balance of enjoy days not caused, must be paid at the time of liquidating the service contract. The basis for the calculation is the salary that the worker has at the time of the payment, plus the average of the last year salary base concepts. A detailed record of the days taken and pending by each employee must be kept, by the employer. This concept is also base for withholding tax.
### Bank Holidays

There are 18 bank holidays in Colombia:

<table>
<thead>
<tr>
<th>JAN</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUN</th>
<th>JUL</th>
<th>AUG</th>
<th>OCT</th>
<th>NOV</th>
<th>DEC</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year’s Eve</td>
<td>St. Joseph Day</td>
<td>Maundy Thursday</td>
<td>Labor Day</td>
<td>Corpus Christi</td>
<td>St. Peter &amp; St. Paul</td>
<td>Battle of Boyacá</td>
<td>Columbus Day</td>
<td>All Saints Day</td>
<td>Inmaculate Conception</td>
</tr>
<tr>
<td>Epiphany</td>
<td>Good Friday</td>
<td>Ascension Day</td>
<td>Sacred Heart</td>
<td>Independence Day</td>
<td>Assumption Day</td>
<td>Independence of Cartagena</td>
<td>Christmas Day</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

![Image of traditional Colombian attire](image1)

![Image of a man holding a bundle of goods](image2)

![Image of a traditional Colombian basket](image3)
SOCIAL BENEFITS

THEY ARE INALIENABLE
SOCIAL BENEFITS

.LAW DEDUCTIONS

.SEVERANCE

.SEVERANCE INTEREST

.LEGAL BONUS

.CLOTHES ENDOWMENT
**SEVERANCE**

It is a social benefit to which employees with ordinary salary are entitled, and its objective is to cover a contingency for when they are unemployed. It is equivalent to one salary per year and it must be recognized in the accounting expenses month by month. Its base is the monthly salary as long as it does not change in the last three months.

When the salary is variable, the employee earns other constitutive concepts of salary. The amount paid from the first of January to the date of the provision or payment, must be averaged. This accumulated provision between 1 January and 31 December, must be reported in a severance fund chosen by the employee before 14 February of the next year.

When labor contract between parties is terminated, the employer must send a notification to the severance fund so that the employee can retrieve the funds. This transaction can only be performed when the worker is unemployed. When employed, the worker can retrieve the severance fund only for housing or education with the employer’s previous authorization.

**SEVERANCE INTEREST**

It is a social benefit for employees with ordinary salary, which recognize an annual return of 12% on the severance payments recorded in the month-to-month accounting expenses. Its base is the severance payment. The accumulated provision between 1 January and 31 December, must be paid to the employee through his payroll no later than 31 January of the next year.
.LEGAL BONUS

It is a social benefit for the employees with ordinary salary. Payment is equivalent to 15 days of salary for each half year of service. The first payment must be made on the last day of June and the second one must be made within the first 20 days of December, in proportion to the time worked during the calendar semester.

.CLOTHES ENDOWMENT

Employees who earned up to two Minimum Legal Monthly Wages -MLMW (COP$1,562,484), are entitled to this benefit. It consists of a work dress and a pair of shoes, and it must be handed over on 30 April, 31 August and 20 December -provided that at the date of the delivery, the employee has three months of continuous services and is committed to use the endowment for the performance of their duties.
LAW
DEDUCTIONS
.LAW DEDUCTIONS

.EMPLOYEE HEALTH CONTRIBUTION

.EMPLOYEE PENSION CONTRIBUTION

.SOLIDARITY AND SUBSISTENCE FUND CONTRIBUTION

.WITHHOLDING TAXES

.ADMINISTRATION PROCESS FOR NEW COMPANIES
.LAW DEDUCTIONS

Employees in Colombia must be enrolled in the social security system (for pension, health and labor risks) and employers have the obligation to make the monthly contributions on time.

If foreign employees are covered by the pension system in their home country, they are not obligated to be enrolled in the pension system and to pay monthly contributions to the Colombian pension system.

.EMPLOYEE HEALTH CONTRIBUTION

Contribution paid by the employee to the authorities for public health, based on the payments that the employee receives monthly. The contribution paid by the employee is 4%. The fund is selected by the employee.

.EMPLOYEE PENSION CONTRIBUTION

Contribution paid by the employee to the authorities for pension entities, based on the payments that the employee receives monthly. The contribution paid by the employee is 4%. The fund is selected by the employee.
.SOLIDARITY & SUBSISTENCE FUND CONTRIBUTION

It aims to subsidize the contributions to the general system of pensions, for salaried or independent workers who do not have enough resources to carry out the entire contribution. The employee must have a social solidarity fund when his contribution base income exceeds four MLMW (COP$3,124,986), and the contribution is between 1% and 2% depending on the income base.

.WITHOLDING TAX

Its purpose is to anticipate the payment of the income tax of natural individuals. All payments that increase the gross equity of the employee are taxable, as well as direct or indirect payments. The tax law defines certain exemptions and taxes reliefs to reduce the base for withholding tax, but they incorporate some limitations. It can be calculated through monthly calculation or annual calculation, chosen as of 1 January.
SOCIAL SECURITY CONTRIBUTIONS
SOCIAL SECURITY CONTRIBUTIONS

- Health
- Pension
- Family Compensation Fund
- Administration Process for New Companies in Social Security
- National Learning Service - SENA in Spanish
- Colombian Institute of Family Welfare - ICBF in Spanish
- Occupational Risks
**HEALTH**

It is a contribution of 12.5% over the payments that the employee receives monthly. The contribution is 4% in charge of the employee and 8.5% of the employer, except for the employees who earn salaries, allowances, bonuses, social benefits less than ten Minimum Legal Monthly Wages -MLMW (COP$7,812,420). The payment is done through the Integrated Contribution Settlement Form (PILA in Spanish). The maximum contribution rate is 25 MLMW or COP$19,531,050, and the minimum is one MLMW or COP$781,242. For employees with integral salary, the deduction is made based on 70%.

**PENSION**

It is a contribution of 16% over the payments that the employee receives monthly. The contribution is 4% in charge of the employee. Additionally, the employee must have a Social Solidarity Fund when his contribution base income exceeds four LMW (COP$3,124,986), between 1% and 2% depending on the income base. The payment is done through the PILA integrated contribution form. The maximum contribution rate is 25 MLMW or COP$19,531,050, and the minimum is one MLMW COP$781,242. For employees with integral salary, the deduction is made based on 70%.

**FAMILY COMPENSATION FUND**

The contributions to the Compensation Fund are in charge of the employer only, and they correspond to 4% of the employee’s monthly payment. The payment is done through the PILA integrated contribution form and the entry base contribution has no limit. For employees with integral salary, the deduction is made based on 70%.

**ADMINISTRATION PROCESS FOR NEW COMPANIES IN SOCIAL SECURITY**

If the company is new, it is necessary to affiliate both the company and the new hiring to a Family Compensation Fund and a Risk Fund, before the employee’s first day. The entity to which they can affiliate is determine by the employer.
**NATIONAL LEARNING SERVICE -SENA**

The contributions to the National Learning Service -SENA in Spanish-, are in charge of the employer only and it corresponds to a contribution of 2% of the employee's monthly salary. For the employees who earn -salaries, allowances, bonuses, social benefits -less than ten MLMW (COP$7,812,420) the employer does not have to pay this contribution. The payment is done through the PILA integrated contribution form and the entry base contribution has no limit. For employees with integral salary, the deduction is made based on 70%.

**COLOMBIAN INSTITUTE OF FAMILY WELFARE -ICBF**

The contributions to the Colombian Institute of Family Welfare -ICBF in Spanish-, are in charge of the employer only and it corresponds to a contribution of 3% of the employee's monthly salary. For the employees who earn -salaries, allowances, bonuses, social benefits -less than ten MLMW (COP$7,812,420) the employer does not have to pay this contribution. The payment is done through the PILA integrated contribution form and the entry base contribution has no limit. For employees with integral salary, the deduction is made based on 70%.

**OCCUPATIONAL RISKS**

The contributions for the Occupational Risks are in charge of the employer only, and the contribution is between 0.522% and 6.96% of the employee's monthly salary, depending on the risk activity identified by the fund at the time of the company incorporation. The payment is done through the PILA integrated contribution form. The maximum contribution rate is 25 MLMW or COP$19,531,050, and the minimum is one MLMW COP$781,242. For employees with integral salary, the deduction is made based on 70%.
TERMINATION
.CONTRACT TERMINATION

.UNILATERAL TERMINATION

.INDEMNITIES

.RETIRE BONUS

.TRANSACTIONAL VALUE / CONCILIATORY
.CONTRACT TERMINATION

An employer may terminate their employment relationship with an employee without incurring liability, if any of the justified reasons established by law exist -which are mostly based on misconduct or poor performance. A disciplinary process must be conducted before any termination with cause. Terminations without reason are also valid but will trigger severance obligations. For a dismissal without cause, no notice is required, but the employee will be entitled to compensation -indemnification- for unilateral termination as set out below.

.UNILATERAL TERMINATION

Unilateral termination without cause is lawful but will trigger severance obligations. If the termination is unilateral and without cause, the employee will be entitled to receive an indemnification in addition to the final salary. Such indemnification would be calculated as follows:

1. For employees earning less than 10 MLMW (in 2018 COP$781,242): The compensation is 30 days of salary for the first year of service, and 20 days of salary for each additional year of service -proportional to the portion of a year.

2. For employees earning 10 MLMW or more: The compensation is 20 days of salary for the first year of service, and 15 days of salary for each additional year of service -proportional to the portion of a year.
.INDEMNITIES

It is the payment of the contingency for the termination of the work contract without just reason. Its calculation is determined by the type of the employment contract and the amount of the employee's salary. In the case of employees who earns commissions, overtime, surcharges or any other salary concept, an average of what has been paid in the last 12 months must be made. The compensation is not based on the contributions to Social Security, and it is taxable applying a 20%, as long as the labor income of the last year to retirement does not exceed the limit indicated by the Law.

.RETIRE BONUS

It is a value agreed by the employer with the employee, when the cause of the contract termination is by mutual agreement. This concept makes the basis for contributions to the Social Security in health, pension and Occupational Hazard Administrator -ARL in Spanish-, when it exceeds 40% of the paid base -Law 1393/2010. It is taxable applying a fixed percentage determined with the average of the taxable payments for the last 12 months.

.TRANSACTIONAL VALUE / CONCILIATORY

It is a value agreed with the employee when the reason of the contract termination is by transaction or conciliation. This concept is base for Social Security and Contributions, and it is taxable applying a fixed percentage that it is determined with the average of the taxable payments for the last 12 months.
EMPLOYEE DATA PRIVACY
DATA PRIVACY

To process personal data, data controllers must provide a privacy notice to the affected employees prior to the collection and processing of it. In the case of data transfers, the privacy notice must contain the name of the transferee or the person to whom the information is transferred. All transfers of personal data to domestic or foreign third parties must be pre-approved by the data subject/employee.

Employees will have the right to know, update and correct their personal data. This right may be exercised in relation to partial, inaccurate, incomplete, split, or deceptive data, and/or data that is prohibited from or not authorized for processing -such as race or ethnic origin, political orientation, religious or philosophical orientation, and enrollment to unions or social organizations, among other items considered as sensitive information.

Employees can revoke the authorization granted for the processing of their personal data and could request to remove their personal information from the employers or subcontractor's databases, by filing a formal claim. Save for information directly related to their employment -for example, HR core data, recruitment, performance, global compensation learning and training-related data and master data. This possibility is only applicable in the case of wrongful use of the employee's information.
UNDERSTANDING PAYROLL IN COLOMBIA: GLOBAL MOBILITY AND LOCAL EXPERTISE

www.bdo.com.co