Deloitte.

No. 003

July 2025

Panama Legal News

Sanctions Regime for Employers for Non-Compliance with Social Security Obligations

Law 462 of 2025 introduced substantial changes, repealing the general fine framework established in Article 195 of Law 51 of 2005 and implementing new, generally stricter administrative penalty scales, while also clarifying certain violations.

Below is a summary of the main sanctionable actions or omissions and their corresponding administrative consequences, including criminal offenses as defined in the Penal Code:

A. Omission in Registration, Affiliation, Notification, and Payment of Contributions

Employers are obligated to register with the CSS (Social Security Fund), enroll their employees, notify terminations or employer substitutions, and most importantly, withhold and timely remit the employee-employer contributions. Omissions in these areas lead to:

- **Administrative Sanctions (Law 51 of 2005, as amended by Law 462 of 2025):**
  - ◊ **Failure to Register/Affiliate/Notify:** : Failure to register as an employer, affiliate employees, or notify the cessation of operations or change of employer is subject to a fine ranging from B/.100.00 to B/.5,000.00 Art. 102 of Law 462, amending Art. 121 of Law 51). This fine applies per non-affiliated employee. Previously, the fine ranged from B/.50 to B/.500.
  - ◊ **Refusal to Provide Information:** Refusing to provide data required by the CSS to determine obligations or to facilitate inspections is penalized with a fine of **B/.1,000.00 to B/.50,000.00** (Art. 104 of Law 462, amending Art. 123 of Law 51). Previously, this ranged from B/.100 to B/.1,000.
    Delayed Payment: Delays in payment of contributions result in surcharges (up to 10%, according to Art. 92 of Law 51, which remains unchanged) and late interest, collectible through coercive jurisdiction (Art. 6 of Law 462, amending Art. 5 of Law 51).

- **Criminal Offenses (Penal Code):**
  - ◊ **Unlawful Withholding of Contributions (Art. 241, Penal Code):** Directors, officers, managers, legal representatives, or employees of a company who withhold employee-employer contributions and fail to remit them to the CSS within three months (if the amount exceeds B/.1,000) or after being formally required by the CSS, commit a crime punishable by imprisonment of **two (2) to four (4) years.** The penalty increases if the withholding was ordered by the employer or a superior.
  - ◊ **Evasion or Obstruction of Affiliation (Art. 241, para. 2, Penal Code):** Employers or their representatives who, through misleading statements, malicious concealment, or other deceptive acts, evade or hinder the mandatory affiliation of employees, are subject to imprisonment of two (2) to four (4) years.

Sanctions Regime for Employers for Non-Compliance with Social Security Obligations

B. False Declarations and Undue Payments

Submitting incorrect information to the CSS, especially regarding salaries and employees, to reduce the amount of contributions owed results in:

- **Administrative Sanctions (Law 51 of 2005, as amended by Law 462 of 2025):**
  - ◊ Making false declarations in payrolls or "under-reporting" (declaring lower salaries than actually paid) to evade contributions is subject to a fine of **B/.1,000.00 to B/.30,000.00 (**Art. 103 of Law 462, amending Art. 122 of Law 51). Previously, the fine ranged from B/.100 to B/.1,000.
  - ◊ **Criminal Offenses (Penal Code):**
  - ◊ **Document Forgery (Arts. 366 et seq., Penal Code):** FForging or altering public (e.g., official payroll) or private documents that could cause harm constitutes a crime. Forging a public document is punishable by four (4) to eight (8) years in prison. Knowingly using a forged document is also criminalized (Art. 373, Penal Code).
  - ◊ **Deceptive Declarations to Evade Affiliation (Art. 241, para. 2, Penal Code):** As noted above, this conduct is punishable by two (2) to four (4) years in prison.

C. Simulation of Legal Acts

Using legal constructs or schemes to conceal the true nature of an employment relationship or wage income in order to evade CSS obligations is also punishable:

- **Administrative Sanctions (Law 51 of 2005, as amended by Law 462 of 2025):**
  - ◊ Simulating legal acts to avoid CSS obligations (e.g., using allowances, bonuses, or per diems to disguise wages) is subject to a fine of **B/.1,000.00 to B/.50,000.00** (Art. 105 of Law 462, amending Art. 128 of Law 51). Previously, this ranged from B/.100 to B/.1,000.
- **Criminal Offenses (Penal Code):**
  - ◊ If the simulation involves deceptive statements, malicious concealment, or schemes to evade affiliation, Art. 241, para. 2, Penal Code applies (2 to 4 years imprisonment).
  - ◊ If the simulation includes falsified documents C.(e.g., sham contracts), forgery provisions (Arts. 366 et seq., Penal Code) may apply **(4 to 8 years for public documents).**

• if the simulation **involves deceit for illicit gain to the detriment of the** CSS or the worker, it may constitute Fraud (Art. 220, Penal Code, punishable by 1 to 4 years in prison, or more if aggravated). CI.

D. Other Violations of the Organic Law of the CSS

Any other violation of Law 51 and its amendments not specifically sanctioned under the preceding articles may result in:

- **Administrative Sanctions (Law 51 of 2005, as amended by Law 462 of 2025):**
  - ◊ Fine ranging from B/.500.00 to B/.25,000.00 (Art. 106 of Law 462, amending Art. 129 of Law 51). Previously, it ranged from B/.25 to B/.250.

Régimen Sancionatorio para Empleadores por Incumplimientos en Materia de Seguridad Social

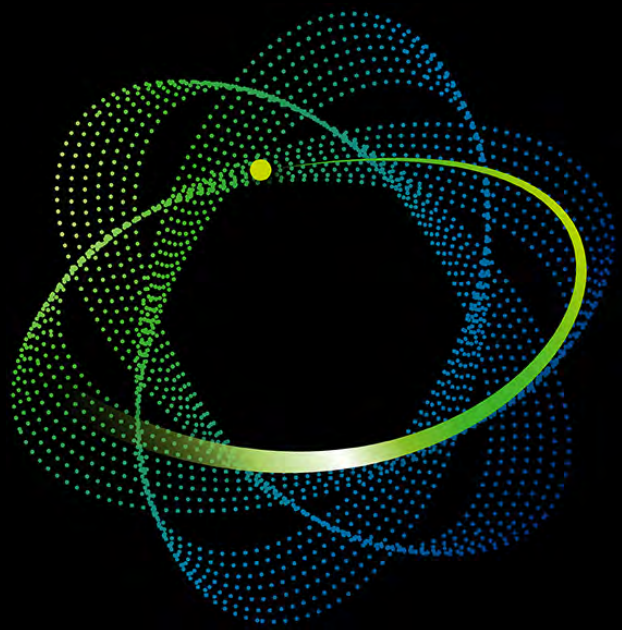
General Considerations

• **Criteria for Administrative Fines:** Law 462 (Art. 106) provides that the CSS will determine the amount of fines based on factors such as the economic impact, amounts evaded, number of affected employees, severity of the infraction, and recidivism.

• **Independence of Liabilities:** The imposition of administrative fines by the CSS is independent of any criminal liability that may arise and be pursued by the Public Prosecutor's Office. An employer may face both administrative and criminal penalties.

• **Additional Obligations:** Fines and prison sentences do not exempt employers from the obligation to pay the principal debt owed to the CSS, plus applicable surcharges and late interest.

The 2025 reform to Panama's Social Security Law significantly tightens the sanctions regime for employers who fail to comply with social security obligations. It substantially increases the administrative fine amounts and activates the Penal Code for serious misconduct such as unlawful withholding of contributions, fraudulent evasion of employee affiliation, and document forgery.



Contactos

Áreas de Negocios

Michelle Martinelli
Socia de Impuestos y Legal
mmartinelli@deloitte.com

Yira Cobos
Socia de Impuestos
ycobos@deloitte.com

Desiree Esáa
Socia de Impuestos
desaa@deloitte.com

Juan Fábrega
Gerente Senior de Legal
jufabrega@deloitte.com

Diego Guillén
Gerente Senior de BPS
dguillen@deloitte.com

Katiushca Navarro
Gerente de Impuesto
kanavarro@deloitte.com

Marissa González Ruiz
Gerente de Impuestos
mgonzalezruiz@deloitte.com

Bélgica González
Gerente de Impuestos
begonzalezi@deloitte.com

Zumara Garrido
Gerente de Impuestos
zgarrido@deloitte.com

Marilyn Fernández
Gerente de Impuestos
marifernandez@deloitte.com

Bryan Antillón
Gerente de Precios de Transferencia
bantillon@deloitte.com

Jaime Solis
Gerente de Comercio Exterior
jasolis@deloitte.com

www.deloitte.com