

Insurances, taxes and hiring in Colombia

1. Hiring Personnel

There are several contract models in Colombia that can be used to hire artists, technicians and authors and, generally speaking, logistical services required in production projects. These are a few of the most common:

The following information should be used only as a guide. We recommend that you find proper consulting from experts before making any decisions regarding the topics treated in this document.

1. 1. *Civil/Commercial contract*

These are independent contracts not seeking to establish any labour relationship between the contractor (producer) and the contractee.

For this reason the contract must not refer to any of the common elements found in labour contracts such as subordination and dependence, although the necessary mechanisms of coordination between the parties must be stated.

This type of contract is free and is signed once an agreement is reached regarding obligations, amount and type of payment. A written document is recommended but is not usually obligatory.

Parties are free to fix the domicile for legal purposes: Colombia or the producer's country of origin.

1.1.1. Implementation in the audiovisual sector

This type of contract can be used to hire persons considered to be “authors” of the work (screenwriter, director, animation designers or composers of original music) when it is necessary to define the rights each of these authors grants to the produce of the film work (public communication rights for formats, territories,

adaptations, reproductions, etc.) and which rights, when applicable, are reserved, since assignment of rights is presumed in Colombia; all type of agreements to the contrary are accepted.

This type of contract is also used to hire artistic services (actors, directors of photography, art directors, set designers, editors, etc.) and technical services provided by individuals or legal entities, as well as a wide range of logistical services (transportation, locations, rooms outside of hotels).

1.1.2. Basic requirements of the contract

As in all contracts, it is important to state the amount of remuneration for each product and whether said remuneration is definitive or if part of it is subject to commercial exploitation of the work, which depends entirely on the parties since there is no obligatory royalty system in Colombia.

1.1.3. Legal procedure

It is convenient, and in certain cases obligatory (depending on national copyright legislation contained in Law 23 of 1982) for the contents of contracts with “authors” of the work to be filmed, with actors and phonographic producers or composers of music to be synched to the film to be recognized and notarized at a nominal cost (about 3 US dollars per contract) and with very little delay.

1.1.4 Contracted obligations

It is also important to a production that the contract state that personnel hired are to assume their own responsibilities with the national health care, pension and professional risk systems, even though the production company may contract additional accident or life insurance coverage.

1.2. Associated work cooperative contracts

Generally speaking, associated work cooperatives are organized to attend to the needs of the economic and cultural sectors, among others. They are comprised of 10 or more individuals who pool their individual jobs in a cooperative but establish no labor relationship with the coop itself.

Cooperatives sign contracts with third parties to produce goods or provide services in exchange for a global payment.

Film productions contract the cooperative which then assigns several of its associates (technicians, actors, artists) to provide services required by the production.

The producer must require proof that coop associates are indeed part of the coop. Otherwise, the employee is considered the producer's subordinate and the producer is responsible for all labor obligations

1.3. Labor contracts

These contracts cover all forms of labor governed by Colombia's Substantive Labor Code. This model is not often used for film productions requiring work for limited periods compared with other fields

2. Taxes

Below are some of the aspects of Colombian tax legislation designed to help producers to better plan their work and correctly calculate budgets and expenses.

The following information is only a guide and we recommend you consult with experts before starting any audiovisual production in Colombia, since application of taxes and duties will depend on each production's unique characteristics.

2.1 Aggregate Value Tax (IVA)

Sales tax is paid on the sale of fixed assets in the form of real estate, imported fixed assets, and services provided in Colombia the general tax rate for sales is 19%. There are differential tax rates between 0% and 5% for some goods and services.

The IVA (Aggregate Value) tax does not apply to property temporarily imported for a short period such as equipment and other elements to be used in film productions and film-related activities.

2.2 National Consumer Tax

This tax is charged for services or sales to the end consumer or for the following items imported by the end consumer:

- Mobile phone services.

- The sale of certain tangible personal property domestically produced goods or imported goods.
- Services related to the sale of food and beverages prepared in restaurants, cafes, supermarkets, ice cream and fruit shops, pastry shops and bakeries, including contracted food services and the sale of food and alcoholic beverages for consumption in bars, taverns and nightclubs.

These goods and services are not subject to VAT.

2.3 Income Tax

In Colombia there is an income tax that consists of an advance payment of income and complementary taxes, which is made at the time the collection is caused by invoice or bank account. Depending on the services provided the type of legal person, the retention rate may vary between 1% to 35%.

3. Insurance

Policies offer general coverage for the following:

- Actors and artistic and technical personnel guaranteeing payment of insured amounts due to interruption of filming, illness, accident, or death.
- Negatives, rushes, copies, soundtracks, and software.
- Defective materials, use of defective materials or equipment. Can cover, among others, development, editing, defective processing, lab work, accidental loss of videotapes or soundtracks, and exposure to light.
- Loss or damage to accessories, sets, costumes, and, in general, property of this type as well as property insured during filming.
- Loss or damage to equipment and materials such as cameras, camera equipment, sound and lighting equipment, electrical equipment and portable generators, effects equipment, and trailers.
- Civil liability for third parties due to damage to property or persons caused by filming.
- Losses suffered by producer due to additional expenses related to interruption or suspension.