LAW NO. 20,894 REGARDING SOCIAL SECURITY PAYMENTS FOR INDEPENDENT EMPLOYEES

February, 2016

On January 26th, 2016, Law N°20,894 was published in the Official Gazette. This law postpones enforcement of the mandate that would require independent employees to pay social security contributions. The new law also provides amendments to certain social security regulations that are currently in force.

Prior to the implementation of this new project, Law N°20.255 stated that the social security reform that required independent employees to enroll in the social security system, would come into force gradually. According to this gradual enforcement process, starting in 2015, independent employees would be required to contribute to a pension fund, with the option to pay for health insurance.

The main amendments introduced by Law N°20,894, are the following:

- ***Requirement to pay social security contributions to a pension fund (AFP):*** Beginning in 2018 (tax year 2019), independent employees will be required to pay into a pension fund based on 100% of their taxable income. Before December 2017, independent employees will maintain the right to decide whether or not to contribute to a pension fund.

- ***Requirement to pay contributions for workers' compensation:*** Payment of contributions for workers' compensation insurance will be mandatory starting in 2018.

- ***Payments for private health insurance (ISAPRE) and public health insurance (FONASA):*** As stated in law N°20.255, health insurance payments will be mandatory beginning in 2018 (tax year 2019), with the amount based on 100% of an independent employee`s taxable income.

- ***Basis for payments into pension funds (AFP) and public health insurance (FONASA):*** The law allows the decoupling of such payments.Currently, payments for workers' compensations and health insurance must be made taking into consideration the same gross income used as a basis for contributions to a pension fund.

  The amendment allows independent employees to contribute to workers' compensation and health insurance based on the gross income declared separately on a monthly basis for such purposes. This differs from pension fund contributions which are determined based on yearly income.

- ***Collection of outstanding social security payments:*** The ability to collect outstanding social security contributions through a judicial collection procedure is eliminated. Instead, the new law indicates that if there are pending social security payments, they will be collected from the amounts withheld by the IRS in the next tax year.

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Prioritization for payments withheld by the IRS: When the IRS withholds funds due to non-payment, funds will be applied to outstanding social security contributions in the following order: (1) Disability Insurance; (2) Workers' Compensation; (3) contributions to a pension fund through a Fund Pension Administrator (AFP); (4) if there are still funds left over, those amounts will be applied towards any remaining unpaid balance of contributions from the immediate previous order, with applicable readjustments; and finally (5) if there is a remaining balance, it will be used to pay health insurance contributions.