



TAX NEWSLETTER

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SET OF RULES ON THE EXTERNAL COMMERCIALIZATION OF GOLD

By means of the Official Gazette No. 42,066 dated February 10, 2021, the Central Bank of Venezuela dictates **DECISION No. 21-01-04**, which establishes the Set of Rules on the External Commercialization of Gold.

Article 1. The subjects that develop the activities that have been enclosed in the Decree with Rank, Value and Force of Law that Reserves the Exploration (Reconnaissance) and Strip Mining Activities of Gold and other Strategic Minerals to the State, have to offer for sale to the Central Bank of Venezuela the gold obtained of the exercise of primary activities in the national territory.

The Central Bank of Venezuela may decline the acquisition of the gold offered for sale, totally or partially, for reasons of opportunity, merit and convenience. In this case, the subjects referred to in this article who are interested in commercializing said mineral abroad, must obtain the authorization of the Institute, be registered in the Sole Mining Registry and have complied with the requirements and conditions established in the current legal framework.

Sole Paragraph: Gold jewelry and precious stones for personal use are excluded from the scope of this Resolution.



Article 2. The people, referred to in article 1 of this Resolution, who intend to carry out export operations of gold and its alloys, in bars, molten, coin, manufactured or in any other way, obtained by the execution of primary activities, they must go to the Central Bank of Venezuela in order to obtain the due authorization, in the terms established in the current Regulations, as well as in the manuals, instructions and notices issued for that purpose, taking into account the policies and priority rules determined by the Institute's Board of Directors.

Likewise, the People's Power Ministry with powers in mining matters may request authorization from the Central Bank of Venezuela so that the subjects referred to in article 1 of these Regulations, proceed to the external commercialization of gold. For that purpose, it has to certify that they are duly registered in the Sole Mining Registry, as well as that they have complied with the corresponding authorizations to exercise mining activity in the national territory, and the receipt of the payments that they must pay to the Republic by the concepts provided by the Decree with Rank, Value and Force of Law that Reserves to the State the Activities of Exploration (Reconnaissance) and Strip Mining of Gold and other Strategic Minerals.

Article 3. For the purposes of issuing the commercialization authorization to which article 1 of this Resolution is applied, the interested party must pay to the Central Bank of Venezuela, for the activities and services related to the issuance thereof, typical of the technical analyzes associated with the determination of the weight and purity of the gold mineral, a percentage between four percent (4%) and up to nine percent (9%) of the amount that is authorized, set in accordance with the guidelines established by its Board of Directors by means of a Memo issued for this purpose, depending on the quantity of the mineral to be exported. Said percentage will be paid in national currency, foreign currency or in kind, in accordance with the conditions indicated by the Institute in the respective authorization.

Article 4. The Central Bank of Venezuela may set up the agreements it deems pertinent with the People's Power Ministry with powers in mining matters, Corporación Venezolana de Minería S.A. (CVM), as well as with any other legal entity of a public nature or State company, for the purposes of receiving, conducting and processing the respective authorization request, as well as for the settlement of the amount that has been stipulated in article 3 of this Resolution, when the respective payment is made in gold.

Article 5. The authorizations to carry out external commercialization operations of gold, issued by the Central Bank of Venezuela, will be non-transferable, and they will establish the maximum amount of gold expressed in weight and purity that may be exported under its protection, as well as the period of validity that said documents will have, which, in no case, may exceed forty-five (45) consecutive days.

Article 6. The Central Bank of Venezuela may authorize exporters to keep a percentage of foreign currency or currencies obtained in accounts in national or foreign financial institutions, with the purpose of facilitating continuous investment in mining activity, which results in the dynamism of the national economy.

Article 7. In order to carry out any gold export operation, the interested party must previously submit to the customs office of departure from the country, the original of the authorization issued by the Central Bank of Venezuela, together with the other documents required by the customs authorities. The original of said authorization, duly stamped and signed by the official of the customs office of departure from the country, must be sent to the Central Bank of Venezuela, and there has to be met the terms and conditions provided by the manuals, instructions, memos or particular acts that are issued for this purpose.

Article 8. The subjects indicated in article 1 of this Resolution have to give to the Central Bank of Venezuela the information that it requires regarding their operations.

Article 9. The Central Bank of Venezuela may carry out the inspections it deems pertinent to the subjects indicated in article 1 of this Resolution, in order to verify compliance by those with the provisions contained herein, being obliged to provide the information and documentation that the Institute requests from them in the scope of the aforementioned inspections.

Article 10. Without prejudice to the penalties provided by the Decree with Rank, Value and Force of Law of the Central Bank of Venezuela and in other laws, the breach by the recipient of any of the obligations imposed in this Resolution, as well as the supply of false, incomplete or inaccurate information, may lead to the revocation or suspension of the export authorizations that have been granted.

Article 11. Any doubts that may arise regarding the interpretation and application of these regulations, as well as unforeseen cases, will be resolved by the Board of the Institute.

Article 12. As of the entry into force of this Resolution, Decision No. 20-08-01 dated August 13, 2020, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 41,958 of September 4, 2020, is repealed.

Article 13. This Resolution shall become effective on the day of its publication in the Official Gazette of the Bolivarian Republic of Venezuela.

THE PERMANENT COMMISSION FOR PUBLIC HIRING OF THE NATIONAL SERVICE OF MINING INSPECTION AND AUDITING (SENAFIM) IS CREATED.

In Official Gazette No. 42,075 dated February 25, 2021, Administrative Ruling No. 0001-2021 of February 19, 2021 is published. It was issued by the National Service of Mining Inspection and Auditing, whereby:

The Commission for Public Hiring of the National Service of Mining Inspection and Auditing (SENAFIM) is created on a permanent basis, which will have the responsibilities established in Article 15 of the Decree with Rank, Value and Force of Law of Public Hiring, to know contracting processes related to contractor selection modalities for the execution of works, acquisition of goods and provision of services; it will be made up of the following areas: Legal, Economic-Financial and Technical. It is made up of main and substitute members (article 1).



Decree with Rank, Value and Force of the Public Hiring Law.

Article 15. The hiring commissions will have the following responsibilities:

1. Issue recommendations on the matters submitted for its consideration and included in the meeting agendas.
2. Request to the highest administrative authority of the contracting body or entity, the appointment of the substitute member, when the absolute absence of a main member of the commission occurs.
3. Summon the substitute member in case of accidental or temporary absence of the main member.

4. Ensure that the contracting procedures are carried out in accordance with the provisions of the current legislation that governs the matter, when applicable, and with the internal regulations of each contracting body or entity.
5. Verify the validity of the certification of the efferents' qualification in the National Registry of Contractors, in contracts whose estimated amount is greater than four thousand tax units (4,000 UT) for goods and services, and five thousand tax units (5,000 UT) for the execution of works.
6. Consider and issue a recommendation on the applicable legal set of rules, the contracting strategy adopted, technical specifications and contracting conditions, the method of selecting contractors, parameters, weightings and criteria for selecting bidders and evaluating bids, the commitment to social responsibility, and on any other proposal presented by the user unit or the contracting unit.
7. Receive, open, analyze, the documents related to the qualification of the bidders; examine, evaluate and compare the offers received, for this purpose it may designate or have the user unit or contracting unit propose interdisciplinary evaluation groups, or recommend the contracting of specialized external consultancy in case the complexity of the object of the contracting requires it.
8. Disqualify bidders or reject bids, in accordance with the provisions of this Decree with Rank, Value and force of Law, in the tender specifications, or in the contracting conditions.
9. Decide on the reconsideration appeals filed by the bidders against the disqualification decisions in open tenders.
10. Approve the recommendation reports in Price Consultations, which derive from a closed contest that has been declared void, or in the contracts carried out within the framework of exceptional plans that, due to their amount, exceed five thousand tax units (5,000 UT) for the acquisition of goods, ten thousand tax units (10,000) for the provision of services and twenty thousand tax units (20,000 TU) for the execution of works.
11. Determine, considering the report of the evaluating group, the offers that, in a comprehensive manner, are more favorable to the interests of the contracting body or entity; all this, in accordance with the requirements established in the specifications, issuing the consequent recommendation.
12. Give an opinion on the reasoned act that is submitted to the highest authority of the contracting body or entity, to proceed by Direct Contracting as an exceptional mode of selection of Contractors, in contracts whose amount would have been a contest, especially the reasons that justify the use of said modality, the legal basis, the selected contractor and the strategic, operational or administrative advantages for said selection.
13. Give their opinion on the proposed modifications to the contracts, the awarding of which was recommended by the Contracting Commission in accordance with the provisions of this Decree with Rank, Value and Force of Law.
14. Give an opinion on the variations in the prices established in the contract, the awarding of which was recommended by the contracting commission, provided that these exceed ten percent (10%) of the original amount of the contract.
15. Give an opinion on the stoppage in the provision of services and the execution of works, which affects the development of the project or the contractual period, in a period greater than twenty continuous days from the stoppage.
16. Approve the closing of the contract in the supply of goods, provision of services and the execution of contracting works that have been recommended by the Commission.
17. Approve the performance evaluation of the contractor, in the supply of goods, provision of services and the execution of contracting works that have been recommended by the Commission, before being sent to the National Contracting Service.
18. Refer cases or events that may generate administrative responsibility to the internal audit unit of the contracting body or entity.
19. Submit the management report at the end of the activities as members of the Hiring Commission, within twenty working days following the appointment of the new commission. This report must also be submitted in the case of the cessation of the functions of any of its members.
20. Exercise any other responsibility that is indicated by the applicable legislation and the internal regulations of the contracting body or entity.

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Víctor E. Aular B.
Management Consultancy Partner /
Managing Partner
vaular@bdo.com.ve

José J. Martínez P.
Audit Partner /
ILP (International Liaison Partner)
jmartinez@bdo.com.ve

José G. Perales S.
Audit Partner
jperales@bdo.com.ve

Helí S. Chirino H.
Audit Partner
hchirino@bdo.com.ve

Lenin J. Fuentes D.
Audit Partner
lfuentes@bdo.com.ve

Yelitza C. Coll F.
Audit Partner
ycoll@bdo.com.ve

Edgar A. Osuna D.
Audit Partner
eosuna@bdo.com.ve

Miguel A. Romero D.
Tax Partner
mromero@bdo.com.ve

Iraima C. Núñez G.
Tax Partner
inunez@bdo.com.ve

Roderick J. Larez L.
BSO Partner
rlarez@bdo.com.ve

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Our Offices

CARACAS. Av. Marino, Centro Comercial Mata de Coco, Floor 3 Office E-3, Urb. San Marino, Caracas, (Chacao), Miranda, Zip Code 1060, Venezuela. Phone number: +58 212 2640637.

VALENCIA. Av. Juan Uslar c/c Av. Carabobo, Centro Corporativo La Viña Plaza, Floor 9. Office 15, Urb. La Viña, Valencia, Carabobo State, Zip Code 2001, Venezuela. Phone numbers: +58 241 613 9069 / 9066 / 9067.

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