

684

21 may 2024

We have a foreign employee of Colombian nationality who arrived in the country with the so-called NM1 visa, but he still does not have the residence card, and he is willing to start working and we want him to start working immediately. Can we register him in Social Security? How do you recommend that he be hired and that he does not cause the least problems or that we are within the framework of the law?

When the person is already in the country with the NM1 visa (which is different from the tourist visa, which means that a job offer has already been made) he can start working immediately, while the residence card is being processed (which lasts about 4 months, approximately), and there are two ways to formalize his hiring.

The first is to register him at the Social Security Treasury. However, this registration is only nominal, i.e., it does not provide him with legal insurance coverage. However, it allows the company to place him on the payroll and to consider him, from now on, as an employee. In this case, it is advisable to contact an insurance broker to open a health insurance and an occupational accident insurance, with coverage until he obtain the residence card.

The other alternative that is being used in practice is to pay him as if he were an

independent professional, withholding the taxes that correspond to that category, with two exceptions: 1) as soon as he obtains his residence card, he must be affiliated with the Social Security Treasury as an employee; and 2) in his seniority as an employment contract, the time in which he was paid as an independent professional must be included.

The first option is more orthodox, although the second option saves on insurance.