



HOW TO HIRE MY FIRST EMPLOYEE IN MEXICO

MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

Labor Relations

The Federal Workers Law has been in force since 1970 and all employers and employees must abide by it. The labor relationship between employers and employees can be established either on an individual or a collective basis.

The aforementioned Law sets forth the requirements and procedures, including working periods, holidays, vacations, unions, working conditions, and basic fares, among other things. According to this law a "working relationship" is based on any subordinate relation between an employee and its employer. So any subordinate relation is considered in Mexico as a labor relation.

The "work or labor relationship" starts at the time any service is provided. Practically, a work or labor relationship assumes the existence of a contract, and the lack of it is imputable to the employer. There is a labor relationship in a permanent activity, in other words, individuals do not deal with isolated company operations and a subordinated job is being performed. A permanent activity is also any activity carried out on a regular, customary and common basis, either by season, campaign or any other mode rather than incidentally, occasionally or sporadically.

Practically, the term subordination means the firm has legal authority in response to a subordinate duty by the individuals providing the services entrusted by the company with which it will benefit. Subordination and thus a labor relationship exists when individuals are bound to provide services under a firms' or firm representatives' control, according to guidelines, policies, rules or regulations set by the firm and which result in subordination; subordination and work relationship means, as well, that the firm has the power within working hours to direct individuals in relation to services entrusted by the firm and correlatively, they are bound to meet the conditions and requirements established by the firm. (See Types of Compensation section).

Work Contracts and Agreements

Regardless of the name given to the contract entered into between the parties, this will be a work contract if on the one hand a personal subordinated service has to be provided and on the other, a wage or consideration has to be paid (regardless of what it is called). On a legally practical basis, a contract is simply a meeting of the minds. Contracts may be:

- 1) Individual agreements: an individual binds himself or herself to perform a personal subordinated work for another.
- 2) Collective bargaining agreements: An agreement entered into between one or several workers' union and one or several employers or one or several employers' unions, aimed at establishing working conditions at one or more firms or business units.

Types of Compensation

The types of employee compensation are as follows:

- 1) Wages and salaries: Common compensation. In this scheme, the income tax, social security fees, and local taxes are withheld. The firm or individual will issue the relevant receipt. The VAT is not paid.
- 2) Fees: A usual scheme for commission agents and temporary professionals. A labor relationship could emerge as provided for in the Labor Relations section. Contrary to the wages and salaries scheme, individuals issue a receipt for tax purposes including income tax and VAT withholdings. There are no social security or additional tax withholdings.
- 3) Subcontracting: Firms that provide personnel service may be subcontracted in order to avoid a labor relationship. Note: Sometimes, a labor relationship has been proven to exist in this type of scheme.

Salaries and Minimum Wage

The working process in Mexico is highly competitive due to its low wages and salaries. Nonetheless, skilled labor is high.

The minimum wage for Mexico City is 70.10 pesos a day for fiscal year 2015.

Workweek

Working hours in Mexico are 48 divided by 6 days (morning shift). Saturday is usually half day's work at manufacturing and maquiladora plants. In the service area, however, an attempt is made to counteract hours distributed throughout the week. So in this particular area of work, 48 working hours are distributed from Monday to Friday. Working periods must include a minimum of 1 hour for lunch.



Night shifts are 42 hours a week, and mixed shifts are 45 hours a week.

By law, double pay is payable for the first nine extra hours, and triple thereafter. For employees who work on Sundays and Holidays, a 25% extra pay is applicable, commonly known as "Sunday bonus". Finally a vacation bonus is granted when vacations are used by employees, of 25% of their daily pay.

Employee Benefits

Employees are entitled to a six day vacation period after one year working period. Subsequently, one day is added to the vacation period per year worked until the employee reaches their 5 year anniversary, which means the employee has been working in the same place for at least 5 years. And after 5 years, two vacation days are added to every vacation period.

As a constitutional right, employees are entitled to half a month's pay as a Christmas bonus due on December 20.

The retirement bonus/premium amounts to 12 days' pay for every fiscal year worked.

Individual dismissed without cause are entitled to three months' pay, plus 20 days for every fiscal year worked, as well as proportional amount of the benefits including Christmas bonus, vacation bonus and workers' profit sharing.

Workers' Profit Sharing

Employees are entitled to 10% of the profits, based on reconciliation similar to that of the Income Tax. The result is divided by a prorated system and includes all the employees except the managing director and top executives.

The employee profit sharing is due on May 31 of the subsequent fiscal year. To avoid this issue companies establish a secondary services company, which must maintain certain restrictions and obligations.

Worker Unions

Workers may organize a union with 20 or more members with the purpose of protecting their interests. Also, workers may join existing legally organized unions.

In many industries collective bargaining agreements are modified every one or two years; however, wages are modified every year.

Social Security (Mexican Social Security Institute, "IMSS")

All employees and workers have the right to receive social security benefits. Such benefits are paid by the employer and the employee on a monthly basis at an estimated rate of 16% and 4% respectively, based on the salary of employees. Such benefits are the following:

- 1) General medical services
- 2) Retirement funds
- 3) Home Loans