

The Mexican Social Security Institute informs the legal and administrative instruments available to ease the payment of social security dues

By announcement number 191, dated April 13, 2020, (“**Announcement**”) the Technical Board of the Mexican Social Security Institute (“**IMSS**”) informed the legal and administrative instruments to ease the due payment of social security dues.

The legal and administrative instruments the announcement refers to are payment in installments and deferred payment.

In this respect, it is important to indicate that such instruments do not constitute a new incentive nor they were granted due to the health contingency caused by COVID-19, but that they were already established in the Social Security Law (“**LSS**”), the Regulations of the Social Security Law in Matters of Affiliation, Classification of Companies, Collection and Investigation (“**Regulations**”), in the rulings of the Technical Board of the IMSS and, as supplementation for the above rules, in the Federal Tax Code (“**CFF**”).

In this regard, it is indicated that employers may request the IMSS to be able to pay in installments or to defer certain concepts in accordance with articles 40 C and 40 D of the LSS¹. In both requests certain specific requirements should be met and, in some cases (i.e. employers with more than 300 workers), a prior authorization of the IMSS is required. Nevertheless, it is important to emphasize that the Announcement is only focused on the request for payment in installments.

In this respect, the payment in installments can be requested for the payment of unpaid social security dues, unpaid medical services rendered by the IMSS to specific workers (so called “**capitales constitutivos**”), indexing for inflation, surcharges and penalties that should be paid in no more than 48 months (upon payment of 20% of the amount due and the payment of 100% of the social security dues withheld from the workers²). For its part, the deferred payment³ may be requested to pay social security dues corresponding to the Insurance for Retirement, Early Retirement and Old Age, not timely paid, for a period not to exceed 48 months⁴.

According to article 133 of the Regulations, the request for payment in installments or deferment will be considered authorized if the IMSS does not notify the employer of the respective resolution within the 20-business days period from the filing of the request (except in cases in which a prior authorization is required).

It is also indicated in the Announcement that if employers timely pay the agreed commitments the penalties can be diminished as established in the Ruling of the IMSS’ Technical Board number 187/2003, published in the Official Federal Gazette on July 15, 2003.

¹ According to article 40 F of the LSS, under no circumstance may employers be released from the payment of the social security dues nor may the corresponding indexing for inflation of the dues or the surcharges be totally or partially condoned.

² Article 40 C, second paragraph of the LSS.

³ It will only be authorized for complete periods due and accessory charges of the social security dues will not be forgiven.

⁴ Article 141 of the Regulations.

The comments contained in this document are not a legal opinion or advice and the authorities may not agree with them.

For additional information please contact our experts who can give their opinion and more details on the matter:

Fernando Moreno, Partner:

+52 (55) 5258 1008 | fmoreno@vwys.com.mx

Jorge Díaz, Associate:

+52 (55) 5258 1008 | jdiaz@vwys.com.mx

Diego Benítez, Associate:

+52 (55) 5258 1008 | dbenitez@vwys.com.mx

VON WOBESER Y SIERRA, S.C.

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