

Subcontracting reform brings significant changes to Mexican labor market

Today, in the evening edition of the Official Federal Gazette, the decree was published amending provisions of the Federal Labor Act; the Social Security Act, the National Workers Housing Fund Institute Act; the Federal Tax Code; the Income Tax Act; and the Value Added Tax Act, regarding Labor Subcontracting.

According to the transitory articles, the reform enters into force on the day following its publication, which is April 24, 2021, except as provided in the tax provisions, which will enter into force on August 1, 2021.

The Ministry of Labor and Social Welfare will have 30 calendar days to issue the guidelines related to the registration of persons authorized to provide specialized subcontracting services. Once such provisions are issued, the individuals and entities that provide subcontracting services will have 90 days to obtain the corresponding registration.

We remind you that the most important changes established in the reform are:

1. The subcontracting of personnel is prohibited.
2. The subcontracting of specialized services (*different from the corporate purpose and preponderant economic activity of the contracting company*) is permitted.
3. The providing of specialized services is permitted with respect to complementary or shared activities provided between companies of the same business group, as long as such activities do not form part of the corporate purpose or of the preponderant economic activity of the company that receives them.
4. Individuals and entities that provide specialized subcontracting services must be registered.
5. A limit is established on the payment of profit sharing (*three months of salary or the average of the profit sharing received in the last three years*).
6. The obligation is established to present quarterly notices before IMSS and INFONAVIT for persons who provide specialized subcontracting services, which notices will contain the identification of the contracting company and the list of personnel that provide the service.
7. Notable sanctions are established for those who violate the reform (*joint liability, non-deductibility and non-credibility, and fines*).
8. The use of simulated schemes involving services, performance of specialized works or subcontracting personnel is included as a qualified tax offense.

For greater detail with respect to the reform you may consult the document [linked here](#). The publication in the DOF is found [at this link](#).

We would be glad to resolve any questions you may have with respect to this important reform and to support you in the implementation of plans of action to comply with its provisions.

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Mexico City, April 23, 2021.

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