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Labor, Social Security, Immigration and Tax Practice Group Joint Newsletter



New Regulatory Criteria for the Tourism and Hotel Industry, regarding the contracting of Specialized Services in Labor Matters

On 12 December 2022, was published in the Official Gazette of the Federation, the application of criteria for the catalog of services that are not considered under the framework of the Reform of the Law that prohibits outsourcing, as specialized services for the tourism and hotel industry, covering the following activities:

- Room cleaning (chambermaids);
- Registration of guests;
- Attention to guests;
- Cooks;
- Bartenders;
- Waiter captain;
- Waiters;
- Laundry attendants;
- Cloakroom attendants;
- General Cleaning Staff;
- Kitchen cleaning and care; and
- Reservations and guest billing.

The above criterion is effective as of December 13th, 2022, so it is advisable for the Tourism and Hotel Industry to be aware of these new provisions and carry out an internal analysis of the following aspects:

- Current contracts with service providers with specialized responsibilities that imply Registry of Service Providers or Specialized Works (REPSE);
- Compliance with four-monthly reports to IMSS and INFONAVIT, ICOSE and SISUB, respectively;
- Identification and prevention of potential contracting risks that could be interpreted by the Ministry of Labor as a prohibited subcontracting scheme; and
- Due integration of documents, filing and preparation for any Social Security or Labor audits.

Depending on each case there are elements to challenge the validity and legality of the criteria published by the Ministry of Labor. Independently, now such criterion is applied through an inspection visit. The companies will have the right to try the corresponding means of defense of the validity of the REPSE service contract, when applicable.

Our multidisciplinary team, with experts in labor, social security, and tax matters, has extensive experience in the implementation of legal subcontracting schemes, as well as in preventive preparation before possible inspections or audits by the authorities, avoiding fines and penalties for what could be considered prohibited subcontracting of personnel.

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