

March 19, 2020

Labor, Social Security and Immigration Practice Group Newsletter



Recent Developments on Labor Matters Derived from COVID-19

In connection with our newsletter dated March 10, 2020, and as you are aware, the spread of COVID-19 virus is affecting labor relations in Mexico.

Our clients continue with doubts on reduced working hours, technical stoppages, advance wage payments and suspensions of employees who have symptoms, as well as home office and the claim of unions so that the company applies to unionized employees, the same measures granted to non-unionized ones.

We have received contradictory signals from our government officials. Some minimize the risks, while others are inclined to decree a health contingency. We at Sánchez Devanny believe that the sanitary contingency will come sooner rather than later.

In accordance with the above and anticipating a possible declaration of sanitary contingency if COVID-19 cases are extended, below please find the labor implications.

In accordance with article 181 of the General Health Law ("GHL"), in the event of a serious or danger of epidemic spread, the Ministry of Health is obliged to immediately issue the necessary measures to prevent and combat the health risks.

Among the measures that can be taken by the Ministry of Health, is issuing the declaration of sanitary contingency and ordering the suspension for a certain period of work activities, by publishing the corresponding decree

in the Official Gazette of the Federation.

Therefore, in the event of sanitary contingency and the suspension of work activities is declared as a measure to prevent the spread of COVID-19, we would be subject to the provisions of the Federal Labor Law ("FLL") that regulates collective suspension of the employment relationships.

If the assumptions established in the FLL are fulfilled, the employment relationship will be temporarily suspended, therefore, there would be no obligation for employees to report to work, neither employers pay the corresponding salary and benefits during such period.

However, the employer will be obliged to pay to employees a severance equivalent to a daily minimum wage, for a maximum term of one month.

It is important that employers clearly describe the payment concept in their payroll slips or CFDI's receipts, as severance for sanitary contingencies, otherwise, it would be considered as salary and, consequently, would have tax and social security effects (payment of amortizations to INFONAVIT, withholding of payment of contributions to IMSS, etc.).

Once the contingency period established by the competent authority concludes, the suspension of the employment relationship also shall be finished and the employees

will be obligated to return to their work sites.

Lastly, it is important to highlight that what is mentioned in this newsletter is what is established in health and labor laws, however, it is expected that government officials and specially President López Obrador, will grant other benefits in favor of employees, so it is important to know these determinations.

At Sanchez Devanny, our Labor, Social Security and Immigration practice has extensive experience in these matters, so please do not hesitate to contact us in case of any comment or question.

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Labor, Social Security and Immigration Practice Group

This practice advises clients on compliance with labor and social security laws, and in the design and implementation of labor structures to avoid risk. We assist in processing immigration documentation for top-level executives and their families, with employment agreements, terminations, and fringe benefit planning, and represent clients in employment litigation.

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