Mexico

1. Government requirements

Registration requirements

Tax responsibilities for employers in Mexico include withholding federal income tax, social tax contributions, housing-fund contributions, and paying state payroll taxes. Employers must also report employee's pay and tax withheld to the government, certify each employee's pay electronically, and ensure the pay complies with labor laws.

Mexico's tax authority is the Tax Administration Service (Servicio de Administracion Tributaria - SAT). The SAT assigns to individuals and employers tax identification numbers for the Federal Registry of Taxpayers (Registro Federal de Contribuyentes - RFC), and the numbers must be included on payroll reports.

Ongoing compliance requirements

To comply with labor and social security legislation in Mexico, it is advisable to hire employees through a local subsidiary or a service entity. Employment law in Mexico is designed in such a way as to prevent too many foreign workers taking jobs at the expense of Mexican workers. Companies cannot employ more than 10% of foreign workers, and they cannot employ anyone in a technical role that could viably be done by a Mexican. However, these rules do not apply to directors and managers.

Employers must also register for social taxes with the Mexican Social Security Institute (Instituto Mexicano del Seguro Social - IMSS) and the Institute of the National Housing Fund for Workers (Instituto del Fondo Nacional de la Vivienda para los Trabajadores - INFONAVIT), as well as the tax authority in the states where the employers are based for state payroll taxes.

Payroll tax (local tax)

There is payroll tax in Mexico which is levied at the state level. The rate ranges between 1% and 3% of salaries and is withheld by the employer. Each Mexican state assesses a payroll-based tax on employers. The tax rates vary between states, but the general calculation method is the total pay to employees minus eight times the minimum wage.

State payroll tax returns and payments are filed with the state where the employer is based.

Withholding tax

Mexican employers must calculate income tax withholding using weekly, biweekly, or monthly tax tables. From 2019, Mexico has 11 tax brackets with rates ranging from 1.92% to 35%. Gross pay includes salary, overtime, bonuses, commissions, seniority premiums, and any other cash benefits from employment. Some fringe benefits are provided tax-free, the most common of which are food coupons. It is mandatory in Mexico to provide employees with online payslips called CFDI.

Payroll records must be kept for at least five years.

An employment subsidy reduces the tax bill of low-income employees who earn up to twice the minimum wage. The subsidy may cover an employee's entire tax bill, in which case it is paid to the employee and the employer may subtract the subsidy from their remitted income tax. The amount of the subsidy ranges from 0 to MXN407.02 (USD21.25) a month.

Employees must complete a tax return if they earn more than MXN415,150 (USD21,670.36) a year, or if they earned less than MXN415,150 and worked for at least two employers in a year.

Expatriates who are resident in Mexico must file an annual tax return. Non-residents do not file annual returns. If a resident's only source of income is from a Mexican employer and the compensation received is less than Ps$400,000.00, the employer is responsible for making annual withholding tax adjustments for the employee. They must be e-filed in April of the following year through the website of the Tax Administration Service.

Social Security

A total of seven different kinds of social tax contributions are administered by the IMSS.

IMSS contributions, except for sickness and maternity leave, are assessed up to a limit known as the base contribution salary (salario base de cotización - SBC), which is 25 times the minimum wage1. Some payments are not included in the SBC, such as overtime up to three hours a day or nine hours a week.

The IMSS also administers work accident insurance, which is an employer contribution paid at a rate depending on which of five risk levels the employer is categorized into when registering as a business.

Employee contributions are mandatory for all workers, unless there is a tax treaty with the home country of expat employees that grants an exemption or credit. Employee social security is calculated based on the monthly compensation (salary plus bonus) and set according to the number of days in the month.

The minimum earnings used to calculate contributions are the legal monthly minimum wage in the insured's geographic area. The maximum earnings used to calculate contributions are 25 times the legal monthly minimum wage - now UMA - in Mexico City. The legal daily UMA in Mexico City is MXN89.62.

Payments to INFONAVIT, which are 5% of each employee's base salary, must be made every two months by the 17th of each month, instead of the monthly schedule used for other social taxes.

Employees who have taken a mortgage through INFONAVIT will have an additional amount deducted from their salary. This is calculated according to a rate set by INFONAVIT who will inform of a set multiplier to the UMI rate (MXN87.21).

2. Pension requirements

Both the employer and employee contribute to the state pension in Mexico. The following contributions are made:

- The employer pays 2% of the employees' base salary as pension contributions for retirement.
- The employer pays 3.15% of employees' base salary as pension contributions for unemployment and old age insurance.
- Employees pay 1.125% of their base salary as pension contributions for unemployment and old age insurance.

Contributions to the Mexican Social Security Institute are not subject to income tax. A proportion of the pension is exempt from tax and the excess will be taxed at the applicable rate.

Before 1997, the Mexican Social Security Institute provided pensions to employees. Employees that became active with the old statute may claim a federal pension benefit upon retirement age and provided that at least 500 weeks of contributions are recorded.

Mandatory pension rights transfer regardless of the employer.

Ongoing compliance requirements

Supplementary pensions

The Social Security Law provides personal supplementary schemes, in which both the employee and/or the employer may agree to pay a greater contribution than that established by the law to increase the retirement funds in their personal accounts. An authorized Retirement Savings Funds Management Institution shall be hired.

It is common, but not compulsory, for employers to provide access to supplementary pension schemes for their employees.

These contributions are not taxable income for the employee and are a deductible expense for the employer, provided that certain requirements are met. Depending on income, a certain proportion of supplementary pension scheme income is exempt from income tax.

There are different types of supplementary pension schemes and ways to determine their value. As these are a contractual benefit, employers can freely determine their terms and conditions.

Most supplementary pension plans include a provision allowing beneficiaries to transfer their benefits to a new employer pension plan in the case of termination of employment, without it becoming a taxable event.

Employers can deduct a portion of their pension fund contributions from their income tax calculation provided that certain requirements are met. Pensions paid to employees are partially tax-exempt, including those paid by insurance companies, provided certain requirements are met.

Where a supplementary pension plan is established, the National Commission for the Retirement Savings System requires that employers establishing the scheme provide the following information via the Electronic Systems for Pension Plans:

- Characteristics of the plan
- Participants
- Contributions
- Benefits
- Investment policy
- Financial resources

In addition, where a reserve is established as a supplementary pension scheme without the intervention of the administrator of funds for retirement, the miscellaneous annual tax rules require that the following documents and information are filed on 15 February each year:

- Statement with reserve analysis
- Employees' information
- Contributions
- General terms of the pension plan

Supplementary employees' pension rights on a business transfer depend on the terms of transfer. In the case of an employer substitution, the employees' pension rights remain the same as they were before the business transfer.

Employees who are working abroad can participate in a pension scheme established by a Mexican parent company. The tax implications will depend on the employee's tax residency.

Employees of a foreign subsidiary company can participate in pension schemes established by the company's parent company. However, all documents issued in relation to the pension plan must comply with the requirements of Mexican law.

3. Employment obligations

The minimum wage in Mexico is currently low but is being raised at a fast pace. For 2020, the rate was increased by 20% to MXN123.22 per day. This affects a significant number of people (around 11 million Mexican workers are on the minimum wage).

Officially, the maximum working week is 48 hours and is spread over six days of eight-hour shifts. However, many companies condense the 48 hours into five days to give their workers two days off each week. Overtime is paid at double the normal wage for the first nine hours per week, and triple for anything beyond that.

Statutory payments in Mexico

i. Vacation bonus (Prime)

Minimum 25% additional pay (based on total compensation for the number of days taken) when on vacation. The employer's policy will state whether this is paid each time the employee takes a vacation or upon them completing one year in the company (this second option is most common).

Unused annual leave must be paid out to the employee (including prima) when the employment ends.

ii. Christmas bonus

Minimum 15 days' pay (based on total compensation) which is paid before 20 December each year.

iii. Unemployment (terminations)

Labor law requires employers to pay dismissed employees a lump sum of three months of pay plus 20 days of pay for each year of service. Also, depending on the hire date, a "Seniority bonus" of 12 days per year may apply.

4. Payroll requirements

Employee wages can be paid weekly, biweekly or monthly, depending on the conditions agreed upon in the employment contract. Payments can be made electronically if a new employee asks for permission to process a payroll bank account.

Outsourcing reform

On 20 April 2021, it was approved the ruling by which several articles of the Federal Labor Law, the Social Security Law, the Law of the National Workers' Housing Fund Institute, the Federal Tax Code, the Income Tax Law and the Value Added Tax Law are added and repealed in connection to outsourcing and profit sharing. Detailed multidisciplinary analysis (labor, social security and tax) is advisable to determine the possible effects that the referred bill could have on the operations of the companies.

5. Banking requirements related to payroll

To open a bank account in Mexico, a company must supply a Tax Identification Number (Registro Federal de Contribuyentes or RFC) or equivalent, proof of address, banking or commercial references, and formal identification of the organization's legal representatives or guarantees of a power of attorney. Processes around these vary from bank to bank, although it is likely that the person opening the account will have to physically attend the bank to do so, and potentially provide further information to comply with Mexican anti-money laundering laws.