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LEGAL LABOR IMPLICATIONS SARS-CoV2 (COVID-19)

As we have previously communicated, as consequence of the pandemic provoked by the virus SARS-CoV2 (COVID-19), in the past days, the Federal Government of the United Mexican States ("Mexico") issued several statements in order to mitigate its transmission, including the resulting declaration of Sanitary Emergency by reason of force majeure.

Notwithstanding the foregoing, as of today the Mexican Federal Government has not released specific rules that provide clarity and certainty to employers regarding how to proceed during this Health Emergency, reason why all of the Mexican economic sectors are pushing for that; however, yesterday night (19:00 hrs. CST) the Mexican Federal Government released a list of essential activities[1] that have to continue in operations to keep the Mexican Economy functioning, but also ordered the immediate temporary suspension of all other activities considered as non-essential from March 30, 2020 through April 30, 2020.

Likewise, based on the Health Emergency declared by the Mexican Federal Government, it is mandatory to temporary suspend labor activities in all non-essential activities from March 30, 2020 through April 30, 2020. However, employers have the obligation to maintain the labor relationships with current employees, including the payment of the 100% of their salary and benefits during such period of time; provided that, if the employers do not follow this rule, they will be subject to the applicable sanctions based on law.

Based on the analysis we have made to the Statements from the Mexican Federal Government, we have determined, and it is clear for all of us, that such Statements have legal deficiencies and also are not issued based on the applicable laws, which results in legal actions against such Statements (available now or in the future); however, considering that the intention behind the Statements is to guarantee and protect the health and life of all of the individuals residing in Mexico at the time, our recommendation to is to proceed to suspend the labor activities with current employees progressively (if applicable), from now through April 30, 2020, and to continue paying the full amount of salary and labor benefits based on the law, as well as on their corresponding individual or bargaining labor agreements to avoid any sanctions from the Mexican Government, regardless of whether such sanctions can be fought in court.

It is important to consider that, based on the interpretation of the Statements, the referred suspension of labor activities is applicable mainly for labor force, as well as for such activities that, because of their nature, necessarily involve presence at the labor center, and may not be performed from home.

If it is the case that (1) the main economic activity developed in Mexico is considered as non-essential for the operation of the Mexican economy; and (2) it is not possible to comply in all its terms with the Statement of the Federal Government to suspend labor activities, we suggest that you please contact us immediately in order to analyze the possible alternatives, considering the economic risk implied.

April 1, 2020.

[1] See list of essential activities attached.