

Personnel Outsourcing Reform

On April 23, 2021, the Decree that amended, added and repealed different laws to regulate the outsourcing-insourcing regime was published in the Federation Official Gazette.

The most relevant changes are the following:

- Personnel subcontracting is prohibited, understanding as such when a natural or legal person puts their own workers for the benefit of another natural or legal person, this also applies to service companies that are part of the same business group (Insourcing).



- “Specialized services or the execution of specialized works” subcontracting is allowed as long as the corporate purpose of the companies to be hired is not similar to the corporate purpose of the companies that contract these services, nor that the predominant economic activity of the beneficiary is equal to that of the service provider.

- Companies that intend to provide “specialized services or execution of specialized works” subcontracting must obtain authorization and register in the registry issued by the Ministry of Labor and Social Welfare, this also applies to Insourcing services. The rules for obtaining authorization must be published no later than May 15, 2021, as well as the definitions of “specialized services or the execution of specialized works”.

- The obligation to submit quarterly contracts for the subcontracting of “specialized services or the execution of specialized works” to both the IMSS and Infonavit is incorporated.

- The IMSS has already issued rules to carry out the transfer of workers under the employer substitution scheme, a process that will be via the internet, confirming the joint responsibility of the new substitute employer for the payment of worker-employer fees caused in the three months prior to the date in which the employer substitution is made.

- The option of having different employer records per class is eliminated, it will be a single record.

- The contractor of the subcontracted specialized services is jointly and severally liable for the payment of withheld taxes and social security contributions from three months before the date on which the employer substitution takes place.



- A new PTU payment ceiling is established of a maximum of three months of salary or the average of the PTU paid in the last three years, whichever is

higher. The process of determining the PTU base and the 10% rate did not have any changes.

- It is incorporated as a requirement for the expense deduction for the purposes of the income tax and accreditation for VAT purposes that are received from the provider of the outsourced specialized services, payroll receipts, withheld tax payments and social security contributions from the service provider on a monthly basis.

- High fines are established for non-compliance with the new tax provisions in all the amended laws, except for Infonavit.

- Although at the local level in CDMX there was no modification, CFCDMX itself already provides for the obligation to present a notice when services are outsourced.

The entry into force of this Decree is as follows:

<u>Starting date</u>	<u>Reforms</u>
April 24th, 2021	Federal Labor Law Modifications
April 24th, 2021	Social Security Law Modifications
April 24th, 2021	Infonavit Law Modifications
August 1st, 2021	Federal Tax Code Reform
August 1st, 2021	Value Added Tax Law Reforms
August 1st, 2021	Income Tax Law Reforms
January 1st, 2022	Workers at the Service of the State Federal Law Reform
January 1st, 2022	Regulatory Law of Section XII Bis Art. 123 Section B of the Political Constitution of the United Mexican States Amendments

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