



MEXICO

## A Brief Look into Mexican Labor Law

Mexico is a federal republic between the Pacific Ocean in the west and the Caribbean Sea and the Gulf of Mexico in east. It borders the United States in the north and is the 14th largest country in the world. With a total population of approximately 129 million, Mexico is the tenth most populous country in the world.

Capital	Land area	Population	Per Capita Income(PPP)
Mexico City	1,972,550 km <sup>2</sup>	129 million	USD9,614

In April 2019, the Mexican House of Representatives passed a Ley Federal del Trabajo (also known as LFT), a reform proposal to regulate the Mexican constitutional reforms, disseminated on February 24, 2017. The following is a brief introduction of the LFT.

The Mexican Labor Law (MFL) protects all the individuals involved in an employment relationship. The MFL considers three (3) different types of workers / employees:

- (i) unionized workers
- (ii) non-unionized workers
- (iii) entrusted employees

Employment agreements could be executed for a:

- fixed time
- specific task
- specific reason
- indefinite time

Such agreements must contain:

- information of the parties concerned

- term of the employment
- services to be rendered by the employee
- place in which the services will be rendered
- salary information (eg: salary amount, terms to be paid, payment date, etc.)
- raining references
- holidays
- any other working conditions mutually agreed by both parties

### Maternity leave

• Maternity leave will last 12 weeks (six weeks before and six weeks after the child's birth). The period before birth can be negotiated by the employee in agreement with the employer in order to be partially enjoyed after birth.

- In the case of adoption, maternity leave lasts six (6) weeks.

- Paternity leave for male employees lasts five (5) days.

During maternity leave, women are entitled to the benefits that they would normally receive. In addition, the following rules apply:

- a) Pregnant women may not work under hazardous conditions, or perform industrial tasks during the night, extraordinary hours or sanitary contingencies. Their salary, benefits, and rights should not be affected.
- b) Statutory maternity leave may be extended as necessary if work is not possible because of the pregnancy or the delivery of the child.
- c) During the nursing period, the new mother is entitled to two (2) additional 30-minute rest periods per day to feed the child in an adequate and hygienic place set aside by the employer. If this is not possible, the parties may agree to reduce her work shift by one hour.
- d) When returning from maternity leave, the employee is entitled to return to her employment, provided that no more than one year has passed since the date of delivery.
- e) During maternity leave, the Mexican Social Security Institute will pay the working mother 100% of her daily salary as a social security contribution. If the maternity leave period is extended, she is entitled to 50% of the daily salary of social security contribution for a period of up to 60 days.

**Working hours, salary and vacation days**

Working Days (Per Week)	Working Hours (Per Week)	Daily shift working hours
Six (6) days per week Or one ready day or one day off per week	<ul style="list-style-type: none"> <li>•Between 40 – 45 hours</li> <li>•Maximum 48 hours</li> </ul> <p>Note: Daily working hours can be negotiated if mutually agreed</p>	<ul style="list-style-type: none"> <li>•Day shift = 8 hours</li> <li>•Night shift = 7 hours</li> </ul>

- a) Vacation days
  - First year of service: Six (6) days
  - Second year of service: Eight (8) days
  - Third year of service: Ten (10) days
  - After third year and thereafter: increased by two (2) days every five (5) years
- b) Vacation bonus of 25% of salaries related to vacation days
- c) 15 days of salary as Christmas bonus
- d) When the employee is being terminated, about three (3) months’ salary should be paid to him/her as severance. 20 days of salaries per year of service should be included in the severance package.
- e) If an employee resigns, the employer only needs to pay vacation bonus and year-end bonus according to a certain percentage. If the employee has

worked for 15 years or more, the employee is to be paid 12 days of salaries per year as part of the severance package.

f) The overtime pay of Mexican workers is based on the hours they work overtime. The overtime salaries will be twice or three times the normal ones. If an employee works overtime for within nine (9) hours, double salary should be paid, i.e. three (3) hours per day and three (3) times per week.

g) If the total overtime exceeds nine (9) hours or the employee works during holidays, the employee should be paid three (3) times the normal salary.

*On February 1, 2019, the minimum wage announced by Mexico’s National Minimum Wage Commission (CONASAMI) was \$102.68 per day. (100MXN ≈ 35.788CNY)*

**Income tax**

- a) Citizens of Mexico and foreigners living in Mexico are subject to income tax.
- b) A Mexican citizen are taxed on his worldwide income while a foreigner living in Mexico is only taxed on his income in Mexico.
- c) Medical expenses, charitable donations, education expenses, etc., should be deducted in the taxable income.

Taxable income(MXN)(2019-2020)			
	Minimum income	Maximum income	Rate %
Resident income tax	0.01	6,942.35	1.92
	6,942.36	58,922.27	6.40
	58,922.28	103,550.51	10.88
	103,550.52	120,372.95	16.00
	120,372.96	144,119.39	17.92
	144,119.40	290667.83	21.36
	290,667.84	458,132.39	23.52
	458,132.40	874,650.11	30.00
	874,650.11	1,166,200.07	32.00
	1,166,200.08	3,498,600.11	34.00
3,498,600.12	Above	35.00	

Taxable income(MXN)			
	Minimum income	Maximum income	Rate %
Non-resident income tax	0	125,900	0
	125,900	1,000,000	15
	1,000,000	and above	30

## Termination of Employment

- a) According to the LFT, there is no specific regulation for the employer to impose a notice period.
- b) In some instances, employers in Mexico may impose a “Garden Leave” on employees to protect the company’s trade secrets or prevent them from taking confidential information with them (especially in the case of professionals holding high-ranking positions).
- c) During the garden leave, the employee remains on the company’s payroll while in the process of terminating their employment but is neither permitted to go to work nor commence any other employment. The duration of the garden leave varies, as much as three (3) months.
- d) The current prevailing method in Mexico is not to ask for a period of “garden leave” and terminate the employee the day on which the employee is formed
- e) When a dismissal occurs, the employer should give a written notice to the employee, stating the date and one or more causes for the dismissal. Only when the employer rescinds the employment due to the cause of termination stated by the MFL, is it not obligated to pay the severance. Otherwise, the labor relationship will be deemed illegal if the employer terminates the relationship without reasons for termination, the employee could sue the employer asking for his/her reinstatement or the payment of full severance.
- f) After receiving the notice of termination, if the employee refuses to accept this notice, the employer should notify the committee within five (5) days the employee’s registered place and the notice being delivered. If the employer sends notice of termination only to the committee or the employee, it will be deemed illegal.

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