Let us handle all of your human resource needs in Mexico

(Complete
HR Services in Mexico).

Human Resources Mexico, S de RL is a limited liability
company, Registered with Servicio de Administración Tributaria
(SAT): #HRM0905084J0 and registered employer with Instituto Mexicano
del Seguro Social (IMSS) #Z311720010-8

Brief Summary of Our Employment Obligations
in Mexico

LABOR LAW IN MEXICO

Labor regulations in Mexico are based on the Mexican Constitution of
defines the employment relationship. The Federal Labor Law regulates
labor contracts, minimum wages, employee benefits and union activity
within Mexico.

THE WORK RELATIONSHIP IN MÉXICO

If a work relationship is not specifically defined as temporary from
the beginning, there are few circumstances under which you can legally
dismiss an employee without incurring compensation responsibilities.
There is no time limit on the length of the work relationship, unless
it is explicitly defined for a set time or for a specific job.

The work relationship can be defined as Permanent Indeterminate, Temporary,
Seasonal, or per Project / Task. Also, employers cannot discriminate
on the basis of race, sex, age, religious or political beliefs, or social
standing.

MEXICAN EMPLOYEE PRIVILEGES

As an employer, you may not infringe on a worker’s rights of
safety, work shift, minimum salary, and required benefits. American Chamber/Mexico
publishes an annual Survey of Salaries which analyzes the compensation
paid to 98 key job positions within companies.

EMPLOYEE BENEFITS IN MÉXICO

Profit Sharing - Federal law requires firms to participate
in a profit sharing program in which employees receive 10 percent of
the firm’s annual profits. Executive officers and general managers
often do not participate in this program. (Human Resources Mexico
is solely responsible for disbursement of profit sharing.)

Christmas Bonus (Aguinaldo) - Firms are also required
to pay a year-end Christmas bonus (Aguinaldo) to all employees equivalent
to 15 days pay before December 20th of each year. It is customary by
some employers to pay a 20-30 day bonus. Those who have worked less than

one year receive a pro-rated bonus. (This is a fee to client, see Client Service Agreement)

Legal Holidays - Mexican Federal Labor Law establishes
7 legal paid holidays per year. Besides these holidays many businesses and labor contracts observe additional days for religious and national celebrations.

Vacation - Vacation time is guaranteed and rewarded based on seniority. Six days of paid vacation must be offered after one year of service, plus two additional days each year for the next three years. By the 5th year of service, this adds up to two weeks of paid vacation. After five years of employment, two more days must be added for each five-year block of service.

A quick guide for calculating vacation is as follows:

Year 1 - 6 days
  Year 2 - 8 days
  Year 3 - 10 days
  Year 4 - 12 days
  Year 5 - 14 days
  Year 10 - 16 days
  Year 15 - 18 days

Vacation Bonus - Mexico has a mandatory "vacation bonus." The bonus is 25% of the base salary for every day of paid vacation. (This is a fee to client, see Client Service Agreement)

Social Security (IMSS) - All workers are automatically covered by the public health care system the Mexican Institute of Social Security (Instituto Mexicano de Seguro Social, IMSS), whether registered or not. It is the responsibility of the employer to register employees as well as contribute a minimum of 17.42 percent of each worker's salary, depending on the risk-factor of the job, into the social security fund. Benefits include basic health care and medications, attention to occupational accidents and care for illnesses. (Human Resources Mexico is solely responsible for taxes and contributions.)

Employee Housing - Employers also are required to pay a 5 percent fixed payroll tax to finance the Institute for the National Fund for Employee Housing (Instituto Nacional del Fondo de la Vivienda para los Trabajadores, INFONAVIT). The goal of this federal program is to provide benefits allowing employees to more easily acquire a home. (Human Resources Mexico is solely responsible for taxes and contributions.)

Retirement Insurance - Under the Retirement Savings System (Sistemas de Ahorro para el Retiro, SAR), employers must pay 2 percent of a worker's salary (up to 25 times minimum wage) to a retirement fund in a bank account under the worker's name. (Human Resources Mexico is solely responsible for taxes and contributions.)
Food, Transportation, and Day Care Bonuses - Optional "fringe benefits", but are frequently provided by the employer calculated as a percentage of the employee's wage, 20% for example. (This is a fee to client based on employment contracts with the employees, see Client Service Agreement)

Maternity Leave - Pregnant employees are entitled to six weeks' leave prior to the approximate date of childbirth and to six weeks' leave thereafter. During this time period, they are entitled to receive their full wages and retain their employment and the rights acquired under their labor contract. During the nursing period, nursing mothers are entitled to two extra paid half-hour rest periods for nursing their children. The six weeks' maternity leave may be extended to the time necessary if it is impossible for the female worker to return to work due to her pregnancy or postnatal recovery. During the regular six week maternity leave, the female worker is entitled to her full wages. In the case of extended maternity leave, the worker will be entitled to half pay for no more than 60 days. With regard to paid maternity leave, the Mexican Social Security Institute (Instituto Mexicano de Seguridad Social, "IMSS") subsidizes 60% of the female worker's salary; therefore, the employer need only pay the difference.

SAFETY

The employer is responsible for staffing labor inspectors to ensure compliance with occupational hazard regulations. Workers who suffer any form of occupational accident are entitled to whatever medical attention is deemed necessary, regardless of his or a co-worker's negligence. Medical care is administered by IMSS. Employers are obligated to modify facilities for the safety and health of workers.

MEXICAN WORK SCHEDULES

The blue collar work force is accustomed to a six-day, 48-hour work week, the maximum allowed by law. The white collar work force usually works an average of 40 hours per week. White collar workers usually have more flexible schedules and sometimes work into the late evening.

Neither pregnant women nor minors are allowed to work in areas of potential health risks, after 10:00 pm, or overtime. The minimum legal working age is 16 years with the permission of parents and a permit from the Secretary of Labor and Social Welfare (Secretaría de Trabajo y Previsión Social, STPS).

Work performed between 6:00 A.M. and 8:00 P.M. is considered day work. Work performed between 8:00 P.M. and 6:00 A.M. is night work. The typical work week is around 40 hours, with the maximum number of hours limited to six-eight hour days for the day shift and seven hours for the night shift.

For each six day work period, employers must provide a day of rest with full pay. The day of rest falls on Sunday. If the employee works on Sunday, the law requires the employer pay the employee twenty five percent more than the employee's normal wage. Overtime is paid at twice the hourly wage for the first 9 hours after 48 or for working on a legal holiday.
holiday, Saturday or Sunday, and triple-time beyond 9 hours.

MIMIMUM SALARY REQUIREMENTS IN MEXICO

According to the Federal Labor Law, the daily minimum wage should represent a purchasing power for a basic standard of living and is set annually in accordance to geographic region. The National Minimum Wage Commission (Comisión Nacional de Salarios Mínimos) has the authority to modify the minimum wage as needed. The minimum wage in the Federal District (Distrito Federal D.F.), which encompasses Mexico City, is considerably higher than in other parts of the country, and there are also higher minimum wages established for some industries. Salaries can be established according to unit of time or work, a lump sum, commission, or any other criteria to which the parties agree.

On January 1, 2011, Mexico raised its minimum wage. The following are daily minimum wage figures:

Area A - $59.82 MXN
    Area B - $58.13 MXN
    Area C - $56.70 MXN

It is important to understand that there are minimum wage requirements for specific job classifications. Contact us if you have questions regarding regions or classifications.

WRITTEN EMPLOYMENT AGREEMENTIN MEXICO

According to the Federal Labor Law, the written employment agreement must contain, at a minimum:

a) name, age, nationality, sex, marital status and address of the worker and the employer;

b) whether the labor relationship is for a specific project or task, for a specific term or for an indeterminate term;

c) the service or services to be provided, to be described with as much precision as possible;

d) the place or places where the services are to be performed;

e) the daily hours worked;

f) the form and amount of wages;

g) the day and place of payment of wages;

h) an indication of the occupational training to be given to the worker;

i) other employment conditions, such as rest days, vacation, leave and other terms agreed to by the worker and the employer.
Absence of a written employment agreement does not deprive the employee of their rights. If the services to be performed are not set out in writing, the employee shall be deemed to be bound to perform only services compatible with their skills of the same kind carried on in the business.

TERMINATION OF THE WORK RELATIONSHIP IN MEXICO

Finally, it is important to have terms of employment in writing because under Mexican law, an employee is legally entitled to all compensation, including benefits, that they can demonstrate they have received from the employer, regardless of whether the term is in writing, provided the compensation and benefits have been provided for at least two years.

Terminating a work relationship can be an expensive process. To dismiss a worker without just cause, you must pay him three months salary (plus 20 days pay per year of service for employees with 15 years or more of service.) Employees with 15 or more years seniority who leave voluntarily are entitled to a minimum compensation of 12 days pay per year of service since May 1970, when this law went into effect.

Under certain conditions, employers may lay-off workers without having to pay severance. An employer may terminate an employee’s employment without liability only upon completion of the project, upon expiration of the specified term of employment, or for cause as defined in the Federal Labor Law which lists 15 causes for termination:

a) the employee provides false references regarding their abilities, skills and qualifications for the job;

b) the employee is found guilty in the course of their employment of a dishonest or dishonorable action, violence, threats or ill-treatment towards the employer or any member of the employer’s family or top management or managerial personnel of the work place, except in cases of provocation or self defense.

c) the employee is guilty of any acts mentioned in the proceeding items towards any co-workers;

d) the employee is guilty, outside of the work place, of any acts mentioned in item b) above towards the employer, any member of the employer’s family or the top management or managerial personnel, in the said acts are of such a serious nature as to render the fulfillment of the labor contract impossible;

e) the employee intentionally causes material damage to the buildings, machinery, tools, raw materials or other items in work place;

f) the employee causes damage of a serious nature, acting without malicious intent, but with negligence which is the sole cause of the damage;

g) the employee negligently or carelessly endangers the safety of the work place or persons therein;

h) the employee is guilty of immoral conduct in the work place;

i) the employee reveals trade secrets or communicates matters of a private or proprietary nature to the
determent of the business;

j) the employee is absent for more than three times in a period of thirty days without the employer’s permission or without sufficient excuse;

k) the employee refuses to obey the employer or their representatives without sufficient reason in matters connected with the services the employee has agreed to provide;

l) the employee refuses to adopt preventive measures to follow the procedures put in force for prevention of accidents or disease;

m) the employee attends work intoxicated or under the influence of a narcotic or harmful drug, unless they have a medical prescription, in which case, they must inform the employer of their prescription and submit a certificate signed by a doctor;

n) an executory judgment sentencing the employee to a term of imprisonment preventing them from fulfilling their obligations under the labor relationship is issued;

o) other grounds similar to those specified in the preceding paragraphs, if such grounds are of equal gravity and entail similar consequences.

Dismissed employees with two or more years of service have the right to sue for reinstatement. If the employee wins the suit he will regain their job, receive full back pay, and may even receive punitive damages. In the event of termination for cause, the employer must give written notice to the employee of the date of the termination of their contract and the reasons for termination. Failure to provide written notice of the reasons for termination shall be sufficient grounds to consider that the termination was not justified.

Mexico has a Conciliation and Arbitration Board, which is an administrative agency charged with resolving labor disputes. An employee may file a complaint with the Conciliation and Arbitration Board demanding reinstatement or damages within two months of their discharge. The employer has the burden of proving that the employee was terminated for cause pursuant to Federal labor law. If the employer fails to meets its burden of proof, the Conciliation and Arbitration Board may determine the termination was without justification and award appropriate relief.

In the event that the Conciliation and Arbitration Board determines that the employer terminated the employee without justification, the employee has the right to:

a) Reinstatement of the job; or

b) Compensation in the form of three months’ wages based upon integrated compensation (i.e. All compensation, including benefits, that the employee can prove they received from the employer during the previous 2 years).

Federal Labor Law provides that employers are not obligated to reinstate an employee, and the employee may not seek reinstatement, in cases in which:
i) the employee has not been employed with the business for at least one year;
   ii) the employee is an executive employee;
   iii) the reinstatement, given all of the circumstances, would be impossible;
   iv) if the employee rendered domestic services; or
   v) if the employee worked part time.

UNIONS IN MEXICO

The constitution and the Federal Labor Law both favor unionization. Approximately 30 percent of the Mexican work force is unionized, about twice the U.S. rate.

The goal of the unions is to protect the interest of employees, with emphasis on workers with more seniority. This could pose a problem if your senior workers are not the most productive. Also be aware that under the philosophy of acquired rights, if you give a certain bonus one year, the union will expect the same bonus the next year.

Franklin Frith is our General Manager and Principal who was born and raised in the United States and currently lives and works in Mexico. Franklin speaks Spanish fluently and he has more than 20 years experience in business development and business process outsourcing (HR, Payroll, Finance, etc.) With our "hands on" approach we handle your Mexican business goals and needs full time, right here in México. You will find that our staff is "on the ground and in the trenches" to help you accomplish your business goals.

Call Toll Free 888-667-0562 from anywhere in USA & Canada.