

COVID-19 Status Update: Globalization Partners HR specialists in Mexico report that the country has encouraged social distancing. Schools are closing until April 20, and some private companies are having employees work from home. As the situation in Mexico develops, Globalization Partners continues to advise our clients on how to preserve employees while keeping business intact, and how to empower employees to work from home and stay productive. We haven't seen any major impact on hiring and recruiting; our clients continue to request our comprehensive solution.

Globalization Partners provides [employer of record services](#) for clients that want to hire employees and run payroll without first establishing a branch office or subsidiary in Mexico. Your candidate is hired via Globalization Partners' Mexico PEO in accordance with local labor laws and can be onboarded in days instead of the months it typically takes. The individual is assigned to work on your team, working on your company's behalf exactly as if he or she were your employee to fulfill your in-country requirements.

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Our Global Employer of Record Platform™ and Global PEO service enables clients to run payroll in Mexico while HR services, tax, and compliance management matters are lifted from their shoulders onto ours. As a Global PEO expert, we manage employment contract best practices, statutory and market norm benefits, and employee expenses, as well as severance and termination if required. We also keep you apprised of changes to local employment laws in Mexico.

Your new employee is productive sooner, has a better hiring experience and is 100% dedicated to your team. You'll have peace of mind knowing you have a team of dedicated employment experts assisting with every hire. Globalization Partners allows you to harness

the talent of the brightest people in 170 countries around the world, quickly and painlessly.

## Hiring, Negotiating and Doing Business in Mexico

In Mexico, relationships are critical as trust can matter more to getting business done than experience or ability. Patience is also important when doing business in Mexico. For example, Mexicans like to chat before getting down to the business at hand and punctuality is not a major concern, with meetings often starting 15 to 30 minutes late. Agreements usually are reached in person, not over the phone, and you will want to get any agreement in writing as oral promises are not always followed through on. Persistence is important, and in fact, can convey that you are truly serious about the business matter. And finally, deadlines tend to be perceived more as guidelines than as hard delivery dates.

Labor unions are recognized under the Federal Labor Law as a means of the employees uniting to protect their common employment rights. Large labor unions exist in Mexico, with a goal of protecting the interest of employees, with their emphasis on workers with more seniority. As a result of the labor unions, collective labor contracts are signed between the employer's representative and the representative of the labor union. Labor union collective contracts are reviewed every two years. A labor union is permitted in a place of employment provided that at least 20% of the employees belong to it.

When negotiating terms of an employment contract and offer letter with an employee in Mexico, it may be useful to keep the following standard benefits in mind:

## Employment Contracts in Mexico

It is legally required to put a strong employment contract in place in Mexico, in the local language, which spells out the terms of the employee's compensation, benefits, and termination requirements. An offer letter and employment contract in Mexico should always state the salary and any compensation amounts in Mexican pesos rather than a foreign currency such as USD. The employment contract template is part of the service with Globalization Partners; no need to draft a separate template if you use our employer of record and PEO service in Mexico.

## Working Hours in Mexico

In general, most office job hours run from 8:00 a.m. to 6:00 p.m., although working hours are now becoming longer and often go until 7:00 p.m. or later. It should be noted that although lunch breaks in Mexico range from one hour for normal workers to three hours for executives. The cultural tradition of a "Siesta" has become extinct with the modern working

era.

If work time limits are passed, compensation of overtime is compulsory. Overtime is paid at 150% of the normal payment. Employers must pay 200% for overtime on Sundays or Bank Holidays. Work time is limited to 11 hours per day and 50 hours per week. Every employee must be given at least one 24-hour rest period each week.

## Bonus

Employees are entitled to a yearly bonus known as an *Aguinaldo*. The minimum *Aguinaldo* each year is equal to 15 days of salary. In most cases, the *Aguinaldo* amounts to 4 week's pay, and in some larger companies up to 6 weeks. The *Aguinaldo* is normally paid in December, although companies which pay 6 weeks usually pay 4 weeks in December and 2 weeks in summer. Sales positions in Mexico are often paid with large sales commissions or quota bonuses. Management positions also have high variable payments, dependent upon meeting business targets.

## Vacation Leave in Mexico

Employees in Mexico are entitled to an annual vacation entitlement of 6 days after the first full year of employment. For every year the employee continues to work for the employer, he/she will receive an additional 2 vacation days. After 4 years, employees' vacation period will increase only 2 days for each additional five years he/she works for the employer.

It should be noted that this is the legal minimum entitlement; typically employers will provide increased vacation days based on seniority and individual negotiations with the employee. We typically see companies offering 12 to 18 days of vacation for higher-earning senior professionals.

## Sick Leave in Mexico

In general, the employer may grant permission for sick leave to employees provided there is a reason that justifies the absence, which can be with or without pay and will be approved at the discretion of the immediate Manager or General Manager.

For the case of absence due to sickness, in general, the employee must submit the Leave Certificate issued by IMSS or a medical prescription issued by a private doctor, the latter will be accepted as justification at the discretion of the Supervisor or General Manager. For absences due to Occupational Sickness, only the Leave Certificate issued by IMSS will be accepted as official justification.

Medical certificates should be provided by the employee who is eligible to claim a government subsidy in the amount of 60% of their salary when suffering from an illness not related to work. This increases to 100% when the illness is work-related. For those employees with higher salaries than capped by Law, some companies pay the difference of the income not received by the employee by Social Security Payment.

## Mexico Maternity Leave

Female employees have a right to maternity leave consisting of six weeks' paid leave before the estimated due date, and six week's paid leave after birth.

Fathers are entitled to 5 paid days of paternity leave.

Maternity leave is paid for by Social Security, not the employer. The payment is capped at 25 times the minimum wage. For those employees with higher salaries than capped by Law, some companies pay the difference of the income not received by the employee by Social Security payment.

## Termination/Severance in Mexico

Employers in Mexico are allowed to establish a probationary period for a term of up to 30 days, generally, or up to 180 days for employees in managerial, technical or professional positions. However, it should be noted that due to lack of sufficient case law in Mexico, probationary periods are considered very risky. Any probation longer than 30 days is in practice not enforceable, and an employer should be prepared to pay severance for any employee with probation longer than 30 days. We strongly do not recommend probation longer than 30 days. Additionally, in order to terminate within the 30 days of probation and not pay severance, it must be because the employee is found unable to perform to the job to satisfaction of the employer.

Employment agreements may only be for a fixed-term contract if a fixed term is required by the nature of the work, or for a temporary replacement of an absent employee. Otherwise, the employment agreement is considered to be for an indefinite term.

Employment agreements can be terminated for the following reasons:

- By mutual agreement (including resignation)
- Death of the employee
- Employee's physical or mental incapacity or disability which makes working impossible
- For cause

Termination payments include:

1. outstanding wages
2. accrued vacation
3. vacation bonus
4. 13th month (Aguinaldo bonus)
5. Any other bonus or commission
6. If terminated without cause Severance and Seniority bonus payments are due
7. other payments under the employment contract, such as, gratuity, provident fund, etc.

When the employer wants to dismiss without cause the employee is entitled to 3 months of pay, 20 day's salary for each year of service, and a seniority premium. The 3 months of severance pay would be paid on full salary, which includes premiums, bonuses, commissions and benefits. Seniority bonus is 12 days' pay, capped at twice the rate of the statutory minimum wage, per year of service. It is very difficult to prove "cause" in Mexico and the cost of doing so often outweighs the cost of the 90 days' severance. Globalization Partners will advise as to the path of least resistance for any employees on our payroll.

If an employee resigns, we will be required to provide his/her pro-rated benefits, i.e. vacation, vacation bonus, and Aguinaldo (Christmas Bonus).

In collective redundancy situations, if the employer recognizes a trade union and wishes to make employees who are union members redundant or make any amendments to an applicable collective agreement, it must negotiate with the union

## Mexico Tax

Employees pay progressive income tax in Mexico. The top rate is approximately 35 percent and starts at a salary level of MXN 3,000,000.01 and above as of 2016.

The AFOREs, which is the Administrator of Retirement Funds (Administradora de Fondos para el Retiro in Spanish), are financial institutions that administer retirement savings accounts on behalf of the employee. All employees associated with the IMSS, ISSTE (applies to government employees) as well as independent employees are eligible to open an AFORE account. An AFORE account consists of the following three subaccounts:

1. RCV (Retirement, and Unemployment as a result of old Age or subcuenta de Retiro, Cesantia en edad avanzada y vejez in Spanish):
  - Retirement: 2% employer contribution
  - Unemployment due to old age: 3.15% employer contribution, 1.125% employee contribution, 0.255% federal government contribution. Additionally, the federal

government contributes \$1.45 Mexican pesos daily.

2. Housing (this is administered by Infonavit, Mexico’s federal institute for worker’s housing and AFORE only registers and controls the funds): 5% employer contribution
3. Voluntary Contributions: Voluntary contributions made by the employee to increase their retirement savings.

Please note the above contribution rates vary for government workers.

The employee has to specify which AFORE they have selected to set aside their retirement funds. If after one year of service the employee hasn’t selected an AFORE, CONSAR (Mexican Commission of Retirement Savings) will assign the employee’s account to the AFORE charging the lowest commissions and the funds contributed during that year will be transferred to the selected AFORE account. The employee will have the option to change their AFORE if they decide.

## Health Insurance Benefits in Mexico

The Mexican Social Security Institute (Instituto Mexicano del Seguro Social, IMSS), a governmental organization in Mexico, mandates coverage of public health care for all employees. However, given some of the disadvantages of the public health care system such as lengthy wait times to see a doctor or specialist, shortage of doctors, lack of flexibility, etc., many employers provide supplemental private medical insurance to their employees.

Some companies offer their employees a private insurance scheme as part of their employment remuneration. Although less than 3% of Mexicans possess a private medical insurance policy, 52% of the country’s total medical expenditures are for private medical services. Private insurance is often preferred as it covers more expensive treatments.

Private medical insurance can be arranged via our [Global Employer of Record Platform™](#) for clients hiring in Mexico. Another alternative is to provide a monthly allowance to the professional so they can purchase their own private plan. We generally recommend that employers provide an allowance in lieu of insurance benefits. If only the employee is being insured a typical allowance would be 2,000 MXN per month. If a family is being insured between 4,000 and 6,000 MXN per month is a typical allowance.

## Additional Benefits in Mexico

The [statutory benefits in Mexico](#) are quite robust, so typically employers do not offer many additional benefits. Flexible work hours are a common benefit and job sharing and telecommuting options are also frequently given. Employers occasionally offer additional

benefits such as additional contributions to retirement savings, reallocation allowances for expats, and Life Insurance.

## Mexico Holidays

The people of Mexico celebrate 8 national public holidays:

- New Year's Day
- Constitution Day
- Benito Juarez's birthday
- Labour Day/May Day
- Independence Day
- Revolution Day
- Election Day (every 6 six years for election of the President)
- Christmas Day

Mexico celebrates several types of holidays:

- festivals (traditional holidays to honor religious events)
- civic holidays (celebrated nationwide but employees are not entitled to a day off with pay)
- statutory holidays celebrated according to Federal Labor Law as listed above.

Employees who work on mandatory holidays are entitled to:

- three times their normal rate of pay
- an agreement with the employer as to the number of hours that they will work.

## Why Globalization Partners

It can be challenging to figure out how to set up a subsidiary or branch office in Mexico, which historically was the first and most complex part of hiring an employee in Mexico. Globalization Partners' [Global PEO](#) and [Global Employer of Record Platform](#) makes it easy to hire employees in Mexico with minimal time and expense. We put your employee on our locally compliant payroll and you get a simple monthly invoice. We can also process expense reports, take care of personal income tax issues, and set up the employee's statutory local benefits in Mexico with the streamlined ease of a company that has done it hundreds of times before, enabling you to skip the difficulty of creating a subsidiary and instead focus on your business.

If you would like to discuss how Globalization Partners can provide a seamless employee

leasing or PEO solution for hiring an employee in Mexico, please contact us.

[Request a Proposal](#)