

Labor implications COVID-19

Derived from the decisions made by the Federal Government on March 30 and 31, through which the pandemic COVID-19 was declared a health emergency and the suspension of labor was deemed necessary due to force majeure in connection to unessential activities in order to face such contingency, there are several inquiries regarding the implications in labor matters, thus we will discuss the most relevant questions to be considered.

Essential activities

Pursuant to the measures issued by the Federal Government, the activities that will necessarily suspend labor are those deemed unessential to face the contingency declared. Specifically, the activities determined as essential are those related to the following supplies, goods and merchandise:

- Materials and products for medical attention, medical devices and medical equipment
- Food and beverages
- Agricultural and farming activities, agroindustry, fishing, aquaculture and analogue activities
- Energy, including oil, and distribution of electric energy
- Telecommunication, information technology, electronics and high technology
- Nourishment for pets, aquaculture, vitamins, medicines and their pre-mixtures
- Veterinary services (clinics and medicines)
- Refrigeration services
- Products for personal and home hygiene
- Critical supply and manufacturing chain
- Chemicals, nuclear including nuclear reactors, materials and the waste sector
- Water systems, dams and water treatment
- Emergency services
- Technical services and supplies for critical infrastructure
- Cement, concrete and steel
- Defense
- Aviation and aeronautics
- Financial services, banking or non-banking, including insurances and bonds
- Governmental facilities
- Health and public health
- Mining and iron and steel works
- Service and distribution for the maintenance of vehicles

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- Courier and shipping services, and e-commerce

Also, in accordance with the above, the services supporting productive plants must be deemed as part of the essential activities, such as:

- Transport and logistics of persons, both public and private.
- Private and general transport services.
- Private security and security systems.
- Transport and logistic chains for products, from supplies, intermediate goods to final goods that must arrive at supermarkets, wholesaler and retailer stores, as well as health and work centers in operation.
- Logistics chains of sales to retailers, markets, retailer stores, among others, which allow to reduce the concentration of population at grand self-service stores.
- Infrastructure of media and telecommunication (customs, ports, highways, mobile telephone service, internet), and information technology (clouds, databases, etc.)
- Maintenance and operation of essential infrastructure such as highways, ports, customs, generation of electric energy, dams, process and distribution of potable water and drainage, distribution of gas, among others.
- Financial and banking services, SOFOM, pledges and micro-credits.
- Insurance sector.
- Maintenance services for buildings, constructions, equipment for productive plants, public infrastructure and telecommunication.
- Public security services.
- Primary stores of food, medicine and essential materials, as well as security equipment and general and industrial protection.
- Public and private health services, emergency services, ambulances and related services.
- Essential services for urban and agricultural community (laundry, home delivery restaurants, hotels, delivery services, funeral services, hardware stores and analogue, moving companies, products and services for farm fields, veterinaries, spare parts for machinery, food stores for animals, among others).

It is recommendable for those companies included in the list of essential activities, to have sufficient elements to prove such situation before an eventual inspection by the Ministry of Labor (*Secretaría del Trabajo y Previsión Social*).

Suspension of activities

As a part of the measures taken, a suspension of activities was prescribed for those activities which are not deemed essential as from March 30 and until April 30, 2020.

It is important to consider that, even if the activity is deemed essential, resting time with salary and benefits must be granted by the employer in the cases of pregnant or breastfeeding women, employees under age 18 and over age 60, as well as those who suffer from preexistent conditions and chronic illnesses. Likewise, the measures suggested must be observed in order to keep a safe distance among their employees, observe hygiene measures and maintain a maximum number of 50 persons within a same space.

Agreements between employer and employees

Although the decrees mentioned above are mandatory, it shall be borne in mind that the Ministry of Labor has deemed crucial the existence of agreements to protect employees and sources of labor, according to the industry and economic activity developed by each company or business.

Accordingly, it is recommendable to formalize any agreement between the parties, even in the event that labor relationships are suspended pursuant to prior agreements, in order to have evidence of the consent expressed by the employees

Shortly

As you may see, to this date there has not been yet declared a Sanitary Contingency, what was declared was a Labor Suspension due to Force Majeure, which in our criteria are totally different, in such a way that the payments the employers have to make can exceed their economic capacity, particularly to those dedicated to non-essential activities.

Consequently, it is recommendable to be close to the employees to look for measures that lead to their protection and the survival of the labor sources. As always, in case you have any doubt about specific cases, do not hesitate to contact our specialists.

Contact us for further information:

Alonso Montes
alonso.montes@andersentaxlegal.mx

Alfredo Pérez
alfredo.perez@andersentaxlegal.mx