



Toulet, Gottfried, Dávila y Martínez, S. C.

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Premium increase on labor risk insurance

Dear clients and friends:

Please be advised that the Mexican Social Security Institute (the "Institute") has been examining the determination of labor risk insurance premiums that were filed by employers before the Institute, due to the annual revision of the labor accident rate. As a result of such examination, the Institute has issued several administrative resolutions increasing the premium that employers apply to calculate their monthly social security contributions.

These actions implemented by the Institute are mostly causing an increment to the monthly social security contributions. However, it is important to mention that in order for these resolutions to be valid, from a legal point of view, the tax authorities shall subject their procedures to the provisions of the Social Security Law and its Regulations; otherwise, the resolution could be considered as issued in contravention of applicable legal provisions and, therefore, declared null.

We have reviewed several cases, and noticed that the Institute is, in fact, acting illegally when evaluating incidents that should not be considered as labor risks, for example: accidents that occur to employees on while commuting from home to their work location or vice versa. In other cases that the Institute tries to establish a disability that has not been notified to the companies or that originates from a labor risk that is not considered by the Social Security Law as terminated.

If your company is experiencing a similar case, please be advised that basically, there are two legal remedies to take: 1) file a disagreement letter; and 2) initiate a nullity trial. The first administrative action shall be filed before the Mexican Social Security Institute within 15 working days after notification and the second action shall be filed before the Fiscal and Administrative Federal Justice Court within 45 working days after notification.

Our firm has vast experience in this type of cases, so before taking any of the above mentioned actions we suggest you allow us to evaluate your specific case and recommend an action to take that better suits your interests.

Sincerely,

Toulet, Gottfried, Dávila y Martínez, S. C.