

## Basic Legal Compliance Guide

The foregoing is a brief due diligence description regarding legal compliance of Mexican companies with foreign investment, with industrial and commercial corporate purpose.

**1. INCORPORATION AND CORPORATE RECORDS.** Under Mexican law, any corporation requires to be witnessed before a Mexican notary public and have its articles of incorporation and bylaws recorded before the Tax Administration Service and the County Recorder's Office. Furthermore it is mandatory that corporations have and keep the following corporate records:

- Capital stock fluctuation recording book, wherein any increase or reduction of capital stock is registered.
- Shareholder's meetings minutes recording book to register any ordinary or special shareholders meeting.
- Shareholder's Registry Book.
- Board of Directors Meetings Minute Book (if management is made through a collective body).
- Share Certificates.
- It is mandatory to perform at least one shareholders meeting every year.

## 2. FOREIGN INVESTMENT.

- Registration of company at the National Foreign Investment Registry (NRFI).
- NRFI requires to be renewed every year. Also quarterly reports are mandatory if quarterly income exceeds 3,000 minimum wages.

**3. ADMINISTRATIVE REGISTRATIONS.** In order to operate the company it is required to file and maintain certain tax returns and reports at a federal level, as well as state and local registrations as follows:

- Registration before the Federal Tax Administration Services Office. This registration allows the company to obtain different modalities, such as, Value Added Tax, Capital Gain Tax, Income Tax, and as Tax Withholder.
- Registration before the State Treasury. This state level mandatory registration is to pay the state payroll.
- Social Security (IMSS). The IMSS mandatory registration enables the company to report and pay its employees' social security benefits and retirement fund.
- Municipal License of Operation. This permit is a mandatory registration and its requirements may vary depending on the municipality. In order to obtain this permit it requires to comply with certain civil protection regulations and fire department rules.
- Registration at the Mexican System for Enterprise Information (SIEM).
- Registration of legal representative for multiple purposes (RUPA).

**4. IMMIGRATION MATTERS.** When foreign investment is involved in Mexican companies, investors require to have control of the operation by appointing foreign personals at the management levels, not to mention foreign technical assistance and training personnel which require the proper working permits for these purposes. Therefore, the company shall obtain such

registration and make the corresponding yearly renewals in order to enable the company to sponsor foreign executives and training personnel.

**5. ENVIRONMENTAL.** Depending on the kind of operation and industry, the company may fall in one or all the three federal, state and local environmental authorizations, as follows:

- State environmental impact report. It is mandatory for all companies performing industrial activities within the state. Depending of the kind of operations it may be required to have emission control and waste management, as resolved in each environmental impact authorization.
- Federal registration is required when the company's operations involve toxic and hazardous materials.
- Municipal environmental report is required when the company uses water in its manufacturing process, which needs to be discharged at the public sewer system.
- In any of these three level registrations it is required to follow the proper monitoring activities in accordance with Mexican Official Standards (NOMs).

**6. LABOR REGISTRATION.** Depending on the activity of the company it is required to have its shop rules recorded at the State Labor Department or at a federal level if the company's activities are related to automotive, mining and other sensitive industries. Nevertheless, depending on the federal competence, unions play an important role, as these entities are active and pro source of work. The union contract also requires to be recorded with the employment department. Moreover, companies dealing with employees are required to follow a substantial amount of regulations regarding, among others:

- Training and hygiene commission.
- Commission for the profit sharing distribution.
- Mexican Official Standards (NOM for its Spanish acronym) for safety, hygiene, illumination, dust control, forklift and other issues, depending on the kind of activity. In order to evidence such compliance the labor department often conducts inspections to verify compliance.
- Registration of each employee with the Social Security Office and retirement account.
- Accident report ledger.
- Classification of level of professional risk of the corporation's employees for Social Security purposes.
- Committee of Security and Hygiene book.
- Registration before the Federal Housing Fund (INFONAVIT) and all related documentation.

**7. FOREIGN TRADE.** Mexican government implemented the maquiladora concept over 20 years ago. During this time this program has evolved, an important change is that it is currently known as the IMMEX program. Mexican companies with IMMEX registration are allowed to import raw materials, machinery and equipment duty free provided that certain requirements are met, such as, the VAT certification. IMMEX registration obliges the company to file monthly and annual reports. The company is also required to comply with certain customs software.

The Sector Promotion Programs (PROSEC) are instruments aimed to entities producing certain goods, which are allowed to be imported with ad-valorem preferential (as low as 0% tax rate of General Tax Import) various goods to be used in the production of specific products Tariff regardless of whether the goods will be produced for export or domestic market.

**8. REAL ESTATE.** Mexican companies with foreign investment clause which acquire real property outside the restricted zone require to have such acquisition recorded with:

- Ministry of Foreign Affairs.
- Public Registry Recorders Office.
- Zoning compliance.
- Use of land authorization.
- City's tax collectors and to pay real property tax.
- Construction permit.

**9. ASSETS, MACHINERY AND EQUIPMENT.** Companies are required to keep in their books their company's assets and to maintain:

- Machinery and equipment's invoices or ownership titles.
- Import documents and receipts of payment of corresponding import taxes of machinery and equipment.
- If the company is using parent company's assets then a bailment agreement is required, same that shall be recorded at the Public Property Recorders Office.

**10. PATENTS, TRADEMARKS, LICENSES FOR USE OF TRADEMARKS AND TECHNICAL ASSISTANCE AGREEMENTS.** Companies are required to have available for the Mexican Industrial Property (IMPI) all licenses for the use of software for each equipment used by the company. On the other hand it is advisable to register any of the company's patents, trademarks or trade names.

**11. HEALTH.** Information regarding any product, label or publicity registered before the Ministry of Health. Information of any import permit, or authorization for production or sale of products regulated by the Health Law.

**12. CONSUMER PROTECTION AGENCY.** If any of the Company's products will be available for sale to the general Mexican market, then an analysis is required in order to determine if the product requires complying with any Mexican Official Standards on consumers safety.

**DISCLAIMER:** The above is the basic guide regarding legal compliance. However, depending of the type of industry, different reports and compliance may be required, particularly regarding environmental and labor issues. Tax compliance is not part of the foregoing guide.