

## Act Now to Comply with the Reform

### Subcontracting of Personnel (Outsourcing)

#### Immediate action

On April 23, 2021, the subcontracting reform was enacted.

The amendment to the Federal Labor Law is effective **April 24, 2021**.

The reform to the tax provisions is effective on **August 1, 2021**.



**CONTACT YOUR TEAM OF EXPERTS**



#### KEY PROVISIONS IN THE REFORM | MAJOR CHANGES AHEAD

- **PROHIBITS** the subcontracting of personnel under most circumstances.
- **SPECIALIZED SERVICES** are allowed as long as they do not relate to the main corporate purpose or economic activity of the beneficiary company and those amongst the companies of the same group.
- **JOINTLY LIABILITY** between the contractor and contracting parties.
- **STPS REGISTRATION.** Suppliers of specialized services must be registered with the Ministry of Labor and Social Welfare (STPS) and prove their compliance with tax and social security obligations (renewal every three years and public roster).
- **PROFIT SHARING.** A maximum payment of three months of profit sharing (PTU), or the average PTU paid during the last 3 years, whichever is more favorable for the employee.
- **EMPLOYEE TRANSFER.** Companies operating under a subcontracting regime will be allowed to transfer their employees to the beneficiary of the services through an employer's substitution without transferring assets within a 90-day calendar period, following to effective date of the labor reform, meaning by **July 22, 2021**.
- **PENALTIES** to employers who do not allow inspections: from **USD \$1,120** to **USD \$22,405**. To those who provide subcontracting services without registration and those who benefit of the same against the new rules: from **USD \$8,962** to **USD \$224,050**. (X Rate: MXN 20 x USD 1).



#### PROPOSED TAX CHANGES

- **INCOME TAX AND VAT.** Payments for subcontracting of personnel related to the main corporate purpose or economic activity of the beneficiary will not allow the deduction from Income Tax nor the right to credit the amount to Value Added Tax.
- **TAX FRAUD.** Simulating schemes of specialized subcontracting services would be considered a felony.



#### IMMEDIATE ACTIONS

Consult counsel to transfer employees if necessary.

All companies should immediately review their subcontracting schemes (insourcing and outsourcing) to comply with the new provisions on labor, tax and social security matters.