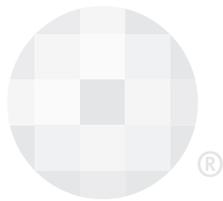


Comparative Overview of U.S. and Mexican Federal Employment Taxes*

By Patrick W. Martin and Abel Mejia



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Patrick W. Martin is a U.S. lawyer licensed in California and Washington, D.C. who studied in Mexico City and specializes in international tax and related international law matters. Mr. Martin is the partner in charge of the international tax practice and Tax Team with the San Diego–based law firm of Procopio, Cory, Hargreaves & Savitch LLP (“Procopio”).



Abel Mejia Cosenza is an attorney at Procopio licensed in California and Mexico and is a member of the International and Tax Practice Groups. Mr. Mejia focuses his practice in representing clients in international tax planning and related international matters, particularly with business operations involving Mexico and U.S.-Mexican legal matters.

Although income taxes are usually the focus of any discussion on tax law in the international context, there are several different types of taxes in the United States. These taxes include income taxes, gift taxes, estate taxes, alcohol taxes, employment taxes, excise taxes, *etc.*, just as there are several different types of taxes in other countries (*e.g.*, value added taxes, income taxes, asset taxes, employment taxes, poll taxes, *etc.*). This article generally explains how the United States imposes employment taxes, which are an often forgotten, yet particularly important tax, due to the ever-expanding tax base.¹ The article focuses on how and when these taxes apply in the international context where international companies and their employees perform services in more than one country. It also briefly discusses how states, particularly California, impose their own employment taxes with their peculiar rules for foreign persons.

Finally, the article discusses the general employment tax regime in Mexico—how and when it applies and at what tax rates. There is a discussion of some of the key differences to provide a comparative analysis of the two systems.

U.S. Federal Employment Taxes

The U.S. employment taxes are a regressive tax, as they apply at the first dollar of income earned at a fixed rate. Most of these taxes, save the Medicare tax, are phased out after reaching a certain threshold of income; hence the regressive nature of the tax. The tax can be significant and generally equals approximately 15.3² percent of an individual’s employment (directly and indirectly including the employer portion) and self-employment compensation. The federal social security tax is referred

to as the Old-Age, Survivors, and Disability Insurance (OASDI) and entails a range of programs that fall within the social security system.³

Employees pay a portion—6.2 percent of OASD (consisting of “FICA”—Social Security tax—and “FUTA”—federal unemployment tax) and 1.5 percent of Medicare taxes. Their employers pay a similar portion for a total of 15.3 percent. Self-employed persons pay the entire amount directly. For persons who receive employment compensation of US\$106,800⁴ in a calendar year, the total federal employment taxes would equal approximately US\$16,340 and the tax can therefore be rather significant. The federal tax and the applicable rates for 2009 are summarized in Table 1.

Table 1

U.S. Federal Employment Taxes		Employee	Self-Employed	Contribution Base (2009)
OASD (FICA & FUTA)	Rates	6.20%	12.40%	\$ 106,800
Medicare	Rates	1.45%	2.90%	Unlimited

These employment taxes, however, are only imposed upon U.S. and non-U.S. persons (sometimes referred to as nonresident aliens) who are employed within the United States or by a U.S. employer. The regulatory definition of “wages” for employment tax purposes, exempts from employment taxes any remuneration for services performed by a nonresident alien individual outside the United States.⁵

Employees vs. Independent Contractors

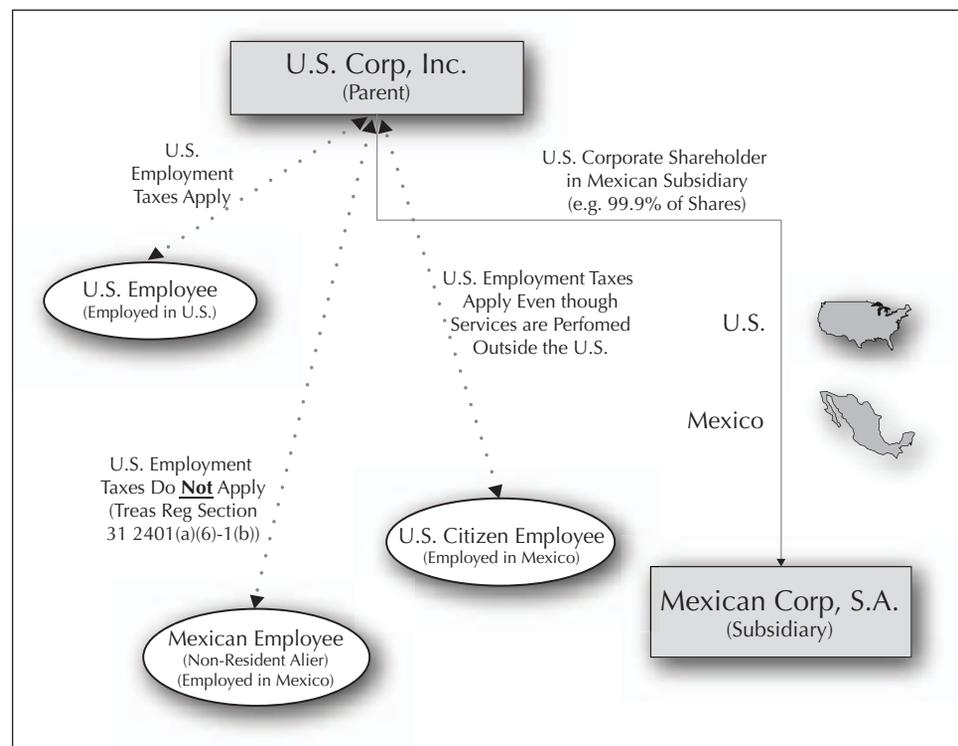
Most importantly, the statutory definition of “wages” includes only “remuneration ... for services performed by an **employee** for his **employer**.”⁶ Therefore, remuneration received by a nonresident alien that is not employment compensation (but rather compensation for independent contractor services and not “wages”) is

exempt from U.S. employment taxes (Social Security tax/FICA, federal unemployment tax/FUTA, and Medicare tax) provided the “remuneration” for the services would not constitute “wages” as defined in the statute and regulations.⁷

A nonresident individual, who receives income from services provided on an “independent contractor basis” as opposed to income from an “employment” relationship, receives that income exempt from employment taxes even when those services are performed in the United States. The analysis of when services are provided as an independent contractor versus as an employee is not simple and is explained below in the endnote.⁸ See for example, *Ringling Bros. Barnum and Bailey Combined Shows, Inc. v. Higgins*.⁹ This determination is a factual one.

In contrast, an employee who is a U.S. citizen or resident alien of a U.S. employer, such as a U.S. corporation is subject to U.S. employment taxes, irrespective of the place that employment services are performed.¹⁰ Diagram 1 provides a summary of how these employment tax consequences can apply in the following scenario with a U.S. parent corporation and Mexican subsidiary.

Diagram 1



Obviously, if the U.S. employee who performs services in Mexico were employed by the Mexican subsidiary, then no U.S. employment taxes would be applicable.

H-2A Visa Holders and Certain Special Cases (F, K, J and M Visas)

Curiously, wages paid to an H-2A visa worker performing agricultural labor in the United States on an H-2A visa is not subject to FUTA tax.¹¹ They are also excluded from Social Security and Medicare Taxes if they are paid to a foreign agricultural workers who are lawfully admitted to the United States from any foreign country on a temporary basis for the purpose of performing agricultural labor.¹² This exemption from FICA, however, only applies to workers who hold an H-2A visa.¹³ Also, H-2A workers are not subject to income tax withholding. More specifically, remuneration earned through agricultural labor is subject to income tax withholding only if the remuneration is subject to FICA tax.¹⁴ Since compensation/remuneration paid to an H-2A worker is not subject to FICA withholding, as discussed above, it is also not subject to income tax withholding.¹⁵

There are a few additional exceptions of how the employment tax does not apply in certain international contexts, including persons who work for American vessels and aircraft where the services are performed outside the United States, non-American vessels where the services are performed outside the United States, certain fishing vessels, services performed on behalf of international organizations and employees of foreign governments.¹⁶

Also, F, J, M and Q visa holders get special treatment for federal employment tax purposes. FICA or FUTA tax does not apply to employees of U.S. employers if the compensation is for “service ... performed by a nonresident alien individual for the period he ... [was] temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigra-

tion and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q).”¹⁷

State Employment Taxes (California)

In addition to federal employment taxes, this portion of the article briefly discusses how different states, such as California also impose their own employment taxes. In the case of California, the California Unemployment Insurance Code (“UIC”) contains the State Unemployment Insurance (“SUI”) and the State Disability Insurance (“SDI”).¹⁸ The rules are quite different from the federal employment tax rules and not well understood by California employers or non-U.S. citizens who are temporarily living and working in the United States with one of these visas.

Cross-border employment arrangements of any company should take into consideration not just the income tax costs, to employers and their employees, but also the employment tax costs which can be particularly significant.

California State Disability Insurance

California SDI contributions are imposed indirectly against employees on a withholding basis, which must be paid by the employer.¹⁹ Under the UIC, every employer paying wages to a nonresident employee for services performed in California is subject to the obligation of applying this withholding tax.²⁰

For these purposes, “employee” means both (1) resident individuals receiving remuneration for services performed within or without California, and (2) those non-resident individuals receiving remuneration for services performed in California.²¹

Moreover, the term “wages” is defined under UIC §13009 as “all remuneration (other than fees paid to a public official) for services performed by an employee for his or her employer including all remuneration paid to a nonresident employee for services performed in this state.” Under this provision, certain items are excluded, such as those “services performed by a nonresident alien individual as designated by regulations prescribed by the department.”

Table 2 summarizes the amounts of these California employment taxes.

Table 2

California Employment Taxes		Employee	Taxable Wage Limit
Disability Insurance (SDI)	Rates	1.10%	\$ 90,669
Unemployment Insurance (UI)	Rates	1.5% - 6.0%	\$ 7,000
Employment Training Tax (ETT)	Rates	0.10%	\$ 7,000

The UIC Regulation 4309-2 lists all exclusions from wages and only excludes remuneration paid to residents in Canada and Mexico who enter and leave California at frequent intervals and in the event of remuneration paid to residents in Mexico or Canada for transportation services. The regulation does not address F, J, H-2A, M or Q visas or any other type of visa holders.

Accordingly, employment services provided by an F, J, H-2A, M or Q visa holders are generally subject to both California SUI and SDI. At the same time, FICA or FUTA tax will not apply to the employee compensation paid by the U.S./California employer.²²

Taxation in Multiple Countries—Totalization Agreements

Next, it is worth noting that in some cases there is a risk that employees who perform services internationally, may become subject to employment taxes in both the U.S. and in another country, thereby exposing them to double taxation. Worst, it is possible to pay into one country's social security and/or health/Medicare insurance system and yet never receive or accrue benefits in one or both countries. The key exception to these rules is when an international social security agreement (known as a "Totalization Agreement") is in force between the United States and another country. In those cases, there are exemptions from taxes imposed by FICA and FUTA if an individual's earnings are subject to taxes or contributions of the foreign country and meet certain other requirements.²³ The authors do not think the current draft Totalization Agreement between the United States and Mexico will be entered into, since apparently billions of dollars are contributed annually to social security by undocumented workers who have no legal right to receive benefits from these payments.²⁴ Some would, therefore say, a Totalization Agreement with Mexico is just a dream.

Mexican Employment Taxes

In addition to Mexican income tax, employment compensation in Mexico is also subject to additional taxes.²⁵ Specifically, employment

compensation in Mexico is subject to social security taxes.²⁶ The Mexican social security system is financed by contributions from the employee, the employer and the federal government as described below.

The social security system and its contributions are mandatory for all employees in the private sector, although certain groups, such as employees of domestic labor and employees of family labor, are excluded.²⁷ Informal sector-workers and self-employed persons are eligible under the law to participate in the social security system. However, they are effectively deterred from doing so because their cost is higher since they must pay not only their own share of contributions but that of their employers as well²⁸ and because the benefits to which they are entitled are less than those applicable in the mandatory regime.²⁹ In addition to general social security contributions, employers are also obliged to contribute to the Mexican Institute for the Workers Housing Fund ("*Instituto del Fondo Nacional de la Vivienda para los Trabajadores*" or "INFONAVIT")³⁰ and pay a Premium for Occupational Risks.³¹ Finally, certain states in Mexico charge a payroll tax on industries that have a certain amount of employees.

In Mexico, the social security system includes medical services, retirement pensions and other social and economic benefits.³² Currently, more than 50 percent of the Mexican population has some type of social security coverage. Social security coverage is mainly provided by either the Mexican Institute for Social Security ("*Instituto Mexicano del Seguro Social*" or "IMSS") or the Social Security Institute for Public Service Employees ("*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado*" or "ISSTE"). The *Instituto Mexicano del Seguro Social* provides coverage for employees in the private sector while the *Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado* provides coverage for employees of the public sector. This document exclusively analyzes the social security tax burden on compensation paid to private sector employees.

Employees vs. Independent Contractors

The Mexican social security regime for the private sector generally only applies to "wages" paid as remuneration for the performance of subordinated services to an employer under a labor relationship.³³

Mexican labor law defines a labor relationship as the performance of personal subordinated services by the employee for the benefit of the employer in exchange for a wage.³⁴ Mexican law sets forth a legal presumption that the provision of personal services is initially deemed a labor relationship,³⁵ however such presumption can be overcome with the appropriate evidence. In general terms, it is considered that the provision of services is subordinated, and thus constitutes a labor relationship, where the employee renders the services on the premises of the employer, subject to schedules set forth by the employer and pursuant to the organization, security and health rules set forth by the employer. A written executed agreement is not required for the existence of a labor relationship.

General Social Security Contributions

All employers must register their employees with IMSS,³⁶ which provides them benefits for job-related and other incapacities, as well as pensions and death benefits. Amounts paid for each employee are computed on the basis of most payments made to the employee for wages and benefits, with certain exceptions. Concepts comprised include any cash payments, “gratifications,” goods provided gratuitously, in kind payments, commissions, premiums and any other cash or benefit provided in exchange for labor.³⁷ Excluded amounts include certain savings deposits, food and lodging for which consideration is charged to the employee, prizes for attendance and punctuality, as well as a portion of overtime.³⁸

Approximately one-third of the social security dues are withheld from the employee and remitted to the IMSS,³⁹ except for the minimum salary wage earner where the employer must cover the full amount of the social security contributions.⁴⁰ The other two thirds are paid by the employer and the federal government.⁴¹ All in all, social security and other labor related contributions can amount to up to 35 percent of the payroll. Employee and employer contributions are made on a monthly or bi-monthly basis.⁴²

The Social Security system provides coverage for the following risks or events: (1) employment risks; (2) sickness and maternity; (3) incapacity⁴³; (4) re-

tirement fund, old age and severance pay; and (5) childcare and other social benefits.⁴⁴ Funds to provide this coverage come from the general social security contributions as well as from the premium for occupational risks charged to employers.

The current Mexican Social Security contribution tax rates are shown in Table 3.

Table 3

Type of contribution	Contribution as a percentage of wage paid	Party obliged to contribution	Contribution as percentage of the base salary
Incapacity	2.5 %	Employer	1.75%
		Worker	.625%
		Government	.125%
Medical care for retirees	1.5%	Employer	1.05%
		Worker	.375%
		Government	0.075%
Retirement	6.5%	Employer	5.15%
		Worker	1.125%
		Government	0.225%
Sickness and Maternity	1.5%	Employer	1.10%
		Worker	.40%
Childcare and other social benefits	1%	Employer	1%

Generally contributions are limited to earnings up to 25 times the minimum wage.⁴⁵

Contributions to the Mexican Housing Institute for Workers

As mentioned, the Mexican Social Security system also comprises contributions to INFONAVIT. The objective of this government organization is to provide housing for all workers, usually favoring workers in low-income brackets.⁴⁶ The employer, on behalf of the employees, must make bi-monthly contributions to INFONAVIT of five percent of the wages and benefits paid with a limit of 25 minimum monthly wages.⁴⁷ The federal government also makes contributions to Infonavit. As in the case of general social security benefits, contributions and benefits received by employees from this institute are tax-exempt. With this payment, the employers comply with their constitutional obligation to provide housing for employees.⁴⁸

Premium for Occupational Risks

The employer must also pay a premium for each employee, which is based on a percentage of the

employee's salary and varies according to the risk level of a particular job.⁴⁹ In general terms, such percentages vary from 0.54 percent for administrative type employees to 7.5 percent for employees engaged in heavy industry and construction. The higher the risk, the higher the percentage tax. IMSS has set forth categories of companies determining a risk factor for each of them.⁵⁰ The risk premium increases correspondingly. There are five general categories and a new company is automatically assigned into one of them when it registers with the institute for the first time.⁵¹ The particular classification is not based upon the activities of the company itself but on level of risk related to the type of work the employees perform at the company.

State Payroll Taxes

A company may be subject to a local state payroll tax depending on the location of its industrial or commercial facilities. Generally, local state payroll tax is computed as a percentage of each individual salary paid. Certain items of compensation and social security contributions are generally not considered part of the taxable base. Small and medium sized companies are generally exempt from this tax. Depending on the state, there are exemptions available for maquiladora and export operations, as well as to new employees.

For example, the state of Baja California (where the industrial cities of Tijuana and Mexicali are

located) sets forth a payroll tax of 1.8 percent on the total consideration paid to employees for the provision of personal subordinated services.⁵² In Baja, California, all employers are subject to this tax regardless of the amount of employees.⁵³ Baja, California law does not subject certain in-kind consideration, the employees profit sharing and indemnity paid for termination of the labor relationship.⁵⁴ Likewise, the state of Queretaro (where a major automotive and aerospace hub is located) sets forth a payroll tax of 1.6 percent on the total amount of waged paid.⁵⁵ The law of Queretaro does not provide industry-specific exemptions but it provides a general exemption for an amount equivalent to eight monthly minimum wages.⁵⁶

Conclusion

Cross-border employment arrangements of any company should take into consideration not just the income tax costs to employers and their employees, but also the employment tax costs, which can be particularly significant. Oftentimes, an employment relationship is structured such that the employer and/or the employee are subject to double employment taxes. Worse, employees may not be entitled to the benefits of the social security program of the country in which social security taxes are paid depending upon the amounts and time periods in which the taxes are applicable.

ENDNOTES

* This article was prepared with the assistance, knowledge and research of many lawyers in the Tax Team of Procopio, specifically including Liliana Sandoval who is both a Mexican and California licensed attorney.

¹ For a more detailed discussion see Michael Lewis, *Comment: Addressing Inequities in the Collection of Social Security Taxes for U.S. Citizens Working Abroad*, 37 SAN DIEGO L. REV. 853 (2000).

² The self-employment tax rate is generally 15.3 percent of self-employment income. This 15.3-percent rate combines the 12.4-percent old age, survivors, and disability insurance ("OASDI") tax and the 2.9-percent hospital tax ("Medicare tax"). The amount of a taxpayer's net self-employment earnings that is included self-employment income (and, thus, subject to the 12.4-percent OASDI tax rate) is limited to the OASDI contribution base in effect for the year. For the year 2008, the OASDI contribution base was \$102,000. For the year 2005, the OASDI contribution

base was \$90,000, for the year 2004, it was \$87,900, for the year 2003, the base was \$87,000 (67 Fed. Reg. 65,620 (Oct. 25, 2002)); for 2002, the OASDI contribution base was \$84,900 (66 Fed. Reg. 54,047 (Oct. 25, 2001)). The 2.9-percent Medicare tax, has no contribution base limit and therefore it applies to all net self-employment earnings irrespective of amount. In addition, this Medicare tax applies at the rate of 1.45 percent.

³ Federal Old-Age, Survivors, and Disability Insurance, Unemployment benefits, Temporary Assistance for Needy Families, Health Insurance for Aged and Disabled (Medicare), Grants to States for Medical Assistance Programs (Medicaid), State Children's Health Insurance Program (SCHIP), Supplemental Security Income (SSI). http://en.wikipedia.org/wiki/Social_Security_in_the_United_States.

⁴ This amount of US\$106,800 represents the OASDI contribution base for 2009.

⁵ Reg. §31.3401(a)(6)-1(b).

⁶ Code Sec. 3401(a).

⁷ See Reg. §§31.3401(a)(6)-1(a)(1) and 31.3401(a)-1. There is also another regulatory exemption from employment taxes regarding Mexican and Canadian employees that regularly travel to and from the U.S. as part of transportation services and certain international projects. Reg. §31.3401(a)(6)-1(c)(1) and (2).

⁸ The IRS has explained the distinction between independent contractor and an employee as follows (LTR 9738015 (June 18, 1997)):

The question of whether an individual is an independent contractor or employee is one of fact to be determined upon consideration of the facts and application of the law and regulations in a particular case. Guides for determining the existence of that status are found in three substantially similar sections of the Employment Tax Regulations; namely, Code Sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1 relating to the Federal Insurance Contributions

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Act (FICA), the Federal Unemployment Tax Act (FUTA), and federal income tax withholding on wages at source, respectively.

Reg. §31.3121(d)-1(c)(2) provides that generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services not only as to the results to be accomplished by the work, but also as to the details and means by which the result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done, but also as to how it shall be done ... In determining whether an individual is an employee or an independent contractor under the common law, all evidence of control and autonomy must be considered. Facts which illustrate whether there is a right to direct or control how the worker performs the specific tasks for which he or she is hired, whether there is a right to direct or control how the financial aspects of the worker's activities are conducted, and how the parties perceive their relationship provide evidence of the degree of control and autonomy. Reg. §31.3121(d)-1(a)(3) provides that if the relationship of an employer and employee exists, the designation or description of the parties as anything other than that of an employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, independent contractor, or the like.

⁹ *Ringling Bros. Barnum and Bailey Combined Shows, Inc. v. Higgins*, CA-2, 189 F.2d 865 (1951).

¹⁰ See Lewis, *supra* note 1.

¹¹ See Code Sec. 3306(c)(1).

¹² See Code Sec. 3121(b)(1); Reg. §31.3121(b)(1)-1(c).

¹³ See *Moorhead*, CA-9, 774 F.2d 936 (1985).

¹⁴ See Code Sec. 3401(a)(2); Reg. §31.3401(a)(2)-1.

¹⁵ See also IRS Pub. 51, Circular A, at 19.

¹⁶ See Code Sec. 3306(c)(4), (11), (16) and (17).

¹⁷ See Code Secs. 3121(a)(19), 3231(e)(1).

¹⁸ The 2009 SDI tax rate is 1.1 percent and subject to a limit of \$90,669 per employee for calendar year 2009. See California's Employment Development Department Web site—www.edd.ca.gov/Disability/SDI_Contribution_Rates.htm.

¹⁹ The term "employer" means any individual, person corporation, association or partnership doing business in the State of California deriving income from sources within such state or in any manner whatsoever subject to the laws of such state and making payment of wages to employees for services

performed within this state.

²⁰ See, UIC §13020.

²¹ Curiously, there is no other exemption to F, J, H-2A, M or Q visa holders or any other specific type of visa holder (UIC §13004). This is in contrast with the federal employment tax rules. The reason this issue is of particular importance to these visa holders, is that these foreign individuals (except the H-2A visa holders) are accustomed to being treated as non-residents for federal income tax purposes while living in the United States, and, hence, having favorable income tax treatment. A foreign individual who has a valid F, J, M or Q visa will generally not be considered a U.S. income tax resident regardless of the number of days residing in the United States. This is because the number of days these individuals are in the United States is not applied toward the "substantial presence test." There are several exceptions to the substantial presence test that permit certain categories of aliens (*i.e.*, non-U.S. citizens) to be ignored for applying the substantial presence test (*i.e.*, based upon the number of days an individual is physically present in the United States) for the current year, such as:

a) Foreign government-related individuals (Code Sec. 7701(b)(5)(B));

b) Teachers and trainees (Code Sec. 7701(b)(5)(C));

c) Students (Code Sec. 7701(b)(5)(D));

d) Professional athletes temporarily in the United States to compete in a charitable sports event (Code Sec. 7701(b)(5)(A)(iv));

e) Aliens who are unable to leave the United States because of a medical condition that arose while they were in the United States (Code Sec. 7701(b)(3)(D)(ii));

f) Regular commuters from Canada and Mexico (Code Sec. 7701(b)(7)(B));

g) Certain aliens who are in transit through the United States (Code Sec. 7701(b)(7)(C)); and

h) Certain crewmembers of foreign vessels that are engaged in international transportation services (Code Sec. 7701(b)(7)(D)).

²² California employers and their payroll departments and payroll service companies should take great care to exclude from FICA and FUTA withholding taxes the compensation earned by employees who hold F, J, H-2A, M or Q visas. At the same time, the same compensation will likely be subject to California SUI and SDI. Incidentally, if a California employer (or any U.S. employer, whether in New York, Florida, Texas, etc.) erroneously withholds the FICA and FUTA tax in these cases (which is not uncommon based upon the authors experience), the visa holder can make a claim for refund and file (1) IRS Form 843, *Claim for Refund and Request for Abatement*, along with (2) IRS Form 8316, *Information Regarding Request*

for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

²³ The United States currently has 24 Totalization Agreements in effect with the following countries; Italy, November 1, 1978; Germany, December 1, 1979; Switzerland, November 1, 1980; Belgium, July 1, 1984; Norway, July 1, 1984; Canada, August 1, 1984; United Kingdom, January 1, 1985; Sweden, January 1, 1987; Spain, April 1, 1988; France, July 1, 1988; Portugal, August 1, 1989; Netherlands, November 1, 1990; Austria, November 1, 1991; Finland, November 1, 1992; Ireland, September 1, 1993; Luxembourg, November 1, 1993; Greece, September 1, 1994; South Korea, April 1, 2001; Chile, December 1, 2001; Australia, October 1, 2002; Japan, October 1, 2005; Denmark, October 1, 2008; Czech Republic, January 1, 2009; and Poland, March 1, 2009. www.ssa.gov/international/agreements_overview.html.

²⁴ See GAO Report July 11, 2006; *Immigration Enforcement: Benefits and Limitations to Using Earnings Data to Identify Unauthorized Work*: www.gao.gov/new.items/d06814r.pdf. This report reflects that more than 500,000 tax returns were filed in 2001 individual taxpayer identification numbers (ITINs) issued to noncitizens and according to IRS official in that report, virtually all of these taxpayers are not authorized to work in the U.S. See further, the NEW YORK TIMES, *Illegal Immigrants are Bolstering Social Security with Billions*, April 5, 2005, by Eduardo Porter. Available online at www.nytimes.com/2005/04/05/business/05immigration.html?scp=1&sq=illegal%20Immigrants%20Are%20Bolstering%20Social%20Security%20with%20Billions&st=cse.

²⁵ Article 123 of the Mexican Federal Constitution.

²⁶ Article 29 of the Mexican Institute for the Workers Housing Fund Law (*Ley del Instituto del Fondo Nacional para la Vivienda de los Trabajadores*) and Article 12 of the Mexican Social Security Law (*Ley del Seguro Social*).

²⁷ Articles 11 and 12 of the Mexican Social Security Law.

²⁸ Article 28 of the Mexican Social Security Law.

²⁹ Articles 82, 83 and 84 of the Regulations of the Mexican Social Security Law for Affiliation, Classification of Companies, Tax Collection and Overview (*Reglamento de la Ley del Seguro Social en Materia de Afiliación, Clasificación de Empresas, Recaudación y Fiscalización*).

³⁰ Article 29 of the Mexican Institute for the Workers Housing Fund Law.

³¹ Articles 40, 70, 71 and 72 of the Mexican Social Security Law.

³² Centro de Estudios Sociales y de Opinión

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- Pública, Mexican House of Representatives.
- ³³ Article 123, sections A, fraction XII, XIV and XXIX of the Mexican Federal Constitution and article 12 of the Mexican Institute for Social Security Law.
- ³⁴ Article 20 of the Mexican Federal Labor Law.
- ³⁵ Article 21 of the Mexican Federal Labor Law.
- ³⁶ Article 15 of the Mexican Social Security Law.
- ³⁷ Article 27 of the Mexican Social Security Law.
- ³⁸ *Id.*
- ³⁹ Article 38 of the Mexican Social Security Law.
- ⁴⁰ Article 36 of the Mexican Social Security Law.
- ⁴¹ Articles 71, 105, 146, 147, 167, 168, 211, 212 of the Mexican Social Security Law.
- ⁴² Articles 39, 184 and 27th transitory of the Mexican Social Security Law.
- ⁴³ The English term incapacity is used to make reference to the coverage denominated “*Invalidez y Vida*”.
- ⁴⁴ Article 11 of the Mexican Social Security Law.
- ⁴⁵ Article 28 and 25th transitory of the Mexican Social Security Law. Mexico has a mandatory minimum wage. This is the minimum amount that an employer can pay an employee for a day or work. The amount of the minimum wage depends on the geographical zone where the personal services are provided. Currently there are three geographical zones, each with a separate minimum wage amount per day. Zone A has a 54.80 pesos minimum wage, Zone B has a 53.26 pesos minimum wage and zone C has a 51.95 minimum wage. The 25 minimum wage top limit is based on the wage in effect in Zone A.
- ⁴⁶ Article 3 of the Mexican Institute for the Workers Housing Fund Law.
- ⁴⁷ Article 29 of the Mexican Institute for the Workers Housing Fund Law.
- ⁴⁸ Article 123, section A, fraction XII of the Mexican Federal Constitution.
- ⁴⁹ Article 71 of the Mexican Social Security Law.
- ⁵⁰ Article 196 of the Affiliation Rules for the Mexican Social Security Law.
- ⁵¹ Article 73 of the Mexican Social Security Law.
- ⁵² Article 151-13 of the State Finance Law of Baja California (*Ley de Hacienda del Estado de Baja California*) and Article 3 of the 2009 State Revenues Law of Baja California (*Ley de Ingresos del Estado de Baja California para 2009*).
- ⁵³ Article 151-18 of the State Finance Law of Baja California.
- ⁵⁴ *Id.*
- ⁵⁵ Article 49-C of the State Finance Law of Querétaro (*Ley de Hacienda del Estado de Querétaro*).
- ⁵⁶ *Id.*

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