

February 1, 2024

Labor and Employment Update

Remote Work Exemption

Last January 17, 2024, the Governor of Puerto Rico signed into law the *Act to Facilitate the Implementation of Remote Work in the Private Sector and to Promote the Establishment of Airline Operations in Puerto Rico* (“Law 27-2024”). One of its two main objectives is to attract jobs from companies that do not do business on the island, but who allow their employees to work remotely. The second main objective is to make the island more attractive for airlines to establish their operations base.

To achieve the first of these objectives, Law 27-2024 provides that the relationship between an employer who does not conduct business in the island, and its remote employees who live in Puerto Rico, will be ruled by their employment contracts, to the exclusion of most local employment legislation. To qualify for this treatment, the employee must classify as an “exempt” administrator, executive or professional. These employees were already “exempt” from most wage and hour protections, such as minimum wage, overtime pay, meal period, paid vacation and sick leave, and restrictions on deductions from wages. However, under Law 27-2024, they are now exempt as well from local protections against illegal discrimination, retaliation and bullying, the indemnity for termination without just cause, the mandatory year-end bonus, drug testing, and several types of leave.

Law 27-2024 also allows the employer to cover these remote employees under its own workers' compensation and temporary non-occupational disability insurance programs. If the remote employee is “domiciled” on the island, however, coverage provided by the employer must equal to or exceed that provided by the State Insurance Fund, SINOT, and chauffeur's insurance programs. This requirement does not apply to employees who voluntarily relocate to Puerto Rico until they become “domiciled” with their employer's consent. (“Domicile” means physical presence with the intent to remain indefinitely.)

Employers who benefit from this law must contribute to local unemployment insurance unless the employee can apply for the benefit in another jurisdiction. Local tax laws will also apply to remote employees. Taking full advantage of Law 27-2024 requires having a written contract. Otherwise, the rights of a domiciled exempt employee will be ruled by local



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law, whereas those of a non-domiciled exempt employee will be ruled by the law of the jurisdiction where he or she is “domiciled”.

We now turn to the law’s second objective. Law 27-2024 applies to employees who are covered by a collective bargaining agreement with an airline that establishes an operational base in Puerto Rico after the law’s effective date. The law applies regardless of the employee’s status as exempt or as a remote employee. The employment relationship in those cases will be ruled exclusively by the collective bargaining agreement.

Our team is available to help you navigate any questions you may have in relation to this new law.

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