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KNOW THE VISA REQUIREMENTS BEFORE SENDING PERSONNEL TO MEXICO

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The sharp increase in trade between South Carolina and Mexico over the last several years has created a greater need for executive, managerial, marketing, and technical employees from South Carolina to travel to Mexico on business. Many employers in South Carolina are not aware, however, that any contracts or other legal documents their representatives sign in Mexico may be invalid if the representative does not have the proper business visa. In addition to jeopardizing the validity of business dealings, doing business in Mexico without first obtaining a business visa is a crime. Accordingly, this article summarizes the requirements for visas that companies should obtain before sending personnel to Mexico on business.

30-Day Visas

The **FMN visa** is available to an employee who is a citizen of the U.S. or Canada whose trip to Mexico will last no more than 30 days. Also, the employee's salary and expenses during the trip must be paid by a U.S. or Canadian employer, not by any Mexican subsidiary, affiliate, or customer of the employer. Finally, the employee must fall into one of several categories. The most frequently used are:

1. Business visitor, which includes:
 - a. Executive and managerial personnel;
 - b. Personnel engaged in marketing, purchasing, or market research activities, including employees attending trade shows or participating in trade missions; and
 - c. Installers or repair and maintenance personnel performing services pursuant to a warranty or other service contract incidental to the sale of equipment or machinery.
2. Trader, which includes executives, managers, or other employees with "essential skills" working for a business exporting or importing a significant level of goods or services to or from Mexico.
3. Investor, which includes executives, managers, or other employees with "essential skills" working for a business that is investing or has invested a significant amount of capital in Mexico.

Personnel using an FMN visa can negotiate and sign contracts for the employer. As a general rule, the FMN visa cannot be extended beyond 30 days. There is no charge for an FMN visa.

The one-page FMN visa form can be obtained and completed at any Mexican international airport or land border at the time of entry into Mexico, or in advance at the Mexican Consulate in Atlanta.

When presenting the completed FMN visa form to Mexican immigration authorities, the form must be accompanied by a letter from the employer on official letterhead describing the employee's position, the purpose of the trip, and the work to be performed in Mexico. Also, the letter should state that the employer is responsible for the salary and expenses of the employee for the duration of the trip to Mexico.

Personnel who are not citizens of the U.S. or Canada, but who are permanent residents of the U.S. or Canada, or who are citizens of one of approximately 30 other countries, can make business trips to Mexico for up to 30 days using the **FMVC visa**, which is similar to the FMN visa.

365-Day Visas

The **FM3 Business Visitor visa** is available to personnel traveling to Mexico for certain business activities for up to two months at a time over the course of one year, as long as the employee's salary and expenses will be paid by a non-Mexican employer. The FM3 Business Visitor visa may be renewed for four additional one-year periods. Personnel using an FM3 Business Visitor visa can negotiate and sign contracts for the employer. The filing fee for an FM3 Business Visitor visa is \$70.

FM3 Business Visitor visa applications must be submitted to the Mexican Consulate General accompanied by, among other things, a letter from the employer on official letterhead describing the employee's position, the purpose of the trip, and the work to be performed in Mexico. Also, the letter should state that the employer is responsible for the salary and expenses of the employee for the duration of the trip to Mexico. It normally takes approximately 10 business days for the Consulate to process FM3 Business Visitor visa applications.

In addition to the FM3 Business Visitor visa, there are **other FM3 visas** available for:

1. Technicians, or other personnel traveling with equipment, who will be paid by a non-Mexican employer;
2. High-level or specialized employees who will be paid by a Mexican employer; and
3. Personnel who will attend a meeting of the board of directors of a Mexican business.

FM3 visas for technicians who will be paid by a non-Mexican employer can be processed by the Consulate; the filing fee is \$120 and the time required for processing is normally 10 business days. FM3 visas for personnel who will be paid by a Mexican employer, or for personnel attending board meetings in Mexico, must be processed by immigration authorities in Mexico prior to traveling to Mexico. Accordingly, the application process for those visas takes somewhat longer.

In conclusion, as South Carolina companies become more involved in the Mexican market, there is an increased need to know the Mexican visa regulations. Failure to comply with these regulations can seriously hamper a company's expansion efforts in Mexico.