

# THE MEXICAN SOCIAL SECURITY INSTITUTE (IMSS) ISSUES GUIDING CRITERION ON TELECOMMUTING.

APRIL 2024

## Executive Summary:

- On March 22, 2024, the Official Gazette of the Federation published the agreement issued by the Honorable Technical Council of the Mexican Social Security Institute approving the criterion 01/2024/NV/SBC-LSS-27-I related to the correct integration of the base contribution salary according to the Social Security Law (LSS), specifically regarding telecommuting benefits in accordance with the Federal Labor Law (LFT).
- Under this criterion, it is considered that an improper tax practice is performed by those who advise, advise, provide services, or participate in the implementation of practices such as providing employees amounts in cash, via payroll or by any means, simulating that it is of benefits regarding telecommuting.

On March 22, 2024, the Official Gazette of the Federation published the agreement issued by the Honorable Technical Council of the Mexican Social Security Institute in its ordinary session held on February 27, 2024, approving the criterion 01/2024/NV/SBC-LSS-27-I related to the correct integration of the base contribution salary according to the Social Security Law (LSS), specifically regarding telecommuting benefits in accordance with the Federal Labor Law (LFT).

Article 27 of the LSS establishes that work instruments such as tools, clothing, and similar items, by their nature, are excluded from the integration of the base contribution salary (SBC).

The criterion adopted by the IMSS establishes that these concepts are similar to telecommuting benefits mentioned in sections I and III of numeral 330-E of the LFT - providing, installing, and maintaining the

necessary equipment for telecommuting such as computer equipment, ergonomic chairs, printers, and assuming the costs of telecommunication services and the proportional part of electricity- and, consequently, should not be part of the SBC integration.

However, it is emphasized that these are part of the expenses that the employer must incur when providing the appropriate means for work provision, so it must be stipulated through a contract, indicating the description and amount to be paid for these concepts.

On the other hand, it is highlighted that excluding telecommuting benefits derived from the employer's obligations from the SBC will be valid when labor relations effectively stem from telecommuting, as proving another form of subordinate labor organization would be considered as a simulation.



Finally, it was stated that under this new criterion, it will be considered that an improper fiscal practice is performed by:

- Anyone who delivers cash amounts to workers, via payroll or by any means, simulating that they are telecommuting benefits derived from employer obligations to provide, install, and maintain the necessary equipment for telecommuting, as well as assuming the costs of telecommunication services and the proportional part of electricity, regardless of the denomination used in accounting records, with the purpose of excluding them as part of the SBC and thus avoiding the payment of social security contributions for remunerations paid to workers.
- Anyone who advises, counsels, provides services, or participates in the execution or implementation of the practices mentioned.
- The certified public accountant who issues a "clean and without reservations" compliance opinion in the social security audit of employers resorting to any of the referred behaviors.

**Link to Publication:**

[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5715043&fecha=24/01/2024#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5715043&fecha=24/01/2024#gsc.tab=0)

**Juan Carlos de la Vega**  
Partner  
jdelavega@s-s.mx

**Andrés Rodríguez**  
Partner  
arodriguez@s-s.mx

**Francisco Udave**  
Partner  
fudave@s-s.mx

**Paulina Morales**  
Associate  
paulinamoraless@s-s.mx