

## client alert

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Mexico City; on April 8th, 2024

### Mexico's Supreme Court validates the three-month cap for the payment of employee's profit sharing.

Through a press release issued on April 3<sup>rd</sup>, 2024, the Second Chamber of Mexico's Supreme Court ("**SCJN**", for its acronym in Spanish) informed that, by means of the ruling of the review of the *amparo* claim 633/2033, it was deemed as **constitutional** the three-month salary cap on the average of the three last fiscal years for the payment of profit sharing to employees, according to article 127 section VII of the Federal Labor Law ("**FLL**"), amended by the reform on labor subcontracting on April 2021.

The SCJN considered as constitutional the three-month salary limit by indicating that this is not **absolute**, since it admits the possibility to consider the average of the last three fiscal years, as well, always applying what benefits the employee the most; **without retroactively undermining employees' rights**, provided that the Mexican Federal Constitution **does not foresee** a minimum limit for these purposes, hence, this variable may be modified.

Please remember that the discussion and ruling of these matters with the SCJN derived from the *amparos* in favor of the union trade *Sindicato Minero Metalúrgico FRENTE* granted in 2023, where the District Courts determined that the caps set forth in article 127 section VIII of the FLL were unconstitutional, issuing several isolated criteria. However, such judgments were challenge through motions for review and, due to its importance, the SCJN attracted such matters to rule in such regard, issuing the corresponding ruling, determining the **constitutionality** of the LFT's provisions, and ending the dispute.

The labor and social security practice of ECIJA Mexico, S.C. remain at your disposal, with respect to any support or advice you may require in this regard.

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