



## HR UPDATE

### LEGAL DEVELOPMENTS IN HUMAN RESOURCES IN ARGENTINA

#### REGULARIZATION OF UNREGISTERED EMPLOYEES. REGULATION.

On January 22, 2009, Resolution Nbr. 3/2009 of the Ministry of Labor and Social Security (the "Resolution") has been published in the Official Gazette, regulating National Law 26,476, (hereinafter, the "Law"). The Resolution regulates the implementation of the regularization regime for unregistered labor relations, promoting registered labor relations.

As we mentioned in our Update of January 2, 2009, **the Law opens up the possibility to regularize the situation of unregistered employees, promoting and protecting registered labor relations.** It also provides special facilities for unpaid **tax and social security obligations.**

The Resolution establishes that:

- In order to benefit from the forgiveness of fines and other sanctions granted by the Ministry of Labor, the employer must file a sworn statement containing complete information of the employees under the regularization plan and the approval of such plan by the tax authorities ("AFIP");
- In order to benefit from such pardon of fines and other sanctions, the employer must include in the regularization process all the non-registered employees subject to fines and sanctions, as well as the total number of employees in the company;
- The regularized employees shall be entitled to any and all benefits from the social security system under same conditions of those duly registered;
- The regularization process must begin with those employees with more seniority and in case of equal seniority, with those of less remuneration;
- The total staff of employees to be taken into consideration by the Law and the Resolution shall be the one as of November 2008. This is important as employers may only keep the benefits granted by the Law as long as they do not reduce the total staff of the company for a period of two years after the ending of the promotional regime that grants the benefits (period starting as from twelve months after the benefits are in force);
- In case of reduction of the staff and in order to maintain the benefits already granted, the employer shall have 90 days to hire enough new employees to keep the same number of employees as of November 2008;
- Temporary employees are not considered to be part of the staff for the purposes of the Law.

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*We will keep you informed of further developments on this issue. Nevertheless, if you are interested in exploring this or other Human Resources issues, please do not hesitate to contact Mr. Carlos E. Alfaro ([cealfaro@alfarolaw.com](mailto:cealfaro@alfarolaw.com)) or Ms. María Paola Trigiani ([ptrigiani@alfarolaw.com](mailto:ptrigiani@alfarolaw.com)).*

