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**Management of Local and Foreign
Workforce in Brazil and in the USA**

Brazilian-American Chamber of Commerce

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Most Important Types of Visas

- Permanent
- Temporary Item V – Technical Assistance
 - 1 year
 - 90 days
- Temporary Item V – Labor Contract

Permanent Visa

- Administrators / officers
- Appointment registered at the official board
- Foreign capital registration at the Central Bank
- US\$ 200,000 or US\$50,000 + 10 new jobs
- Legal status (employee or not?)

Technical Assistance Visa

- Employees of foreign company
- Short-term
 - non-renewable
 - successive applications
- Long-term
 - Renewable once
 - Non-applicability to strictly financial / management / administrative functions
 - Training of Brazilians

Labor Contract Visas

- Employees of Brazilian Company
- 2/3 Law
- Minimum experience (exception for South-Americans)
- Salaries cannot be reduced
- Split-payroll system
- Risks of split-payroll system

Types of Employment Relationship in Both Countries

- Hiring Agreements / Independent Contractors
 - Reality principle (“*primazia da realidade*”)
 - Employment relationship costs – approximately 54% of employee’s salary
- Important obligations when hiring foreign workforce:
 - Social Security (“INSS”)
 - Severance Guarantee Fund (“FGTS”)
- Need for a local company in order to employ local workers in Brazil

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Employment relationship / Hiring Contractors

CHARTS

Most Important Obligations When Hiring Foreign Workforce

- Highly regulated (CF / CLT / sparse legislation / CBA)
- Employment Contracts - CTPS
- Compensation (monthly) and benefits
- Important aspects of Brazilian labor laws: 13th salary / vacation / overtime payments / weekly paid rest / discrimination issues / sexual harassment / union contributions / FGTS

Termination of Employment

- Termination of employment
 - Grounds for dismissal: no motivation needed (exception collective dismissals)
 - Restrictions/tenure (ex. pregnancy, work accident, Union director/CIPA representative/CBA tenure)
- Notice requirements (legal/CBA)
- Termination payments – FGTS fine
- Limited value of release
- *“Comissão de Conciliação Prévia”*

Transfer of Brazilian Employees to Work Abroad

- Law No. 7064/1982
- Applicable legislation
- Maintenance of Brazilian contract
- Split payroll – FGTS/INSS
- Termination of foreign contract / FGTS deductions

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Law No. 7.064/82 – Applicable Legislation

- Law No. 7064/1982
- Lex Loci Executionis
- Brazilian legislation

Law No. 7.064/82 – Maintenance of Brazilian Contract

- Is it obligatory?
- High cost – INSS / FGTS
- Risks in case of labor claim
- “Suspension of Brazilian Contract” – is it possible??

Law No. 7.064/82 – Basic Rights

- Basic salary readjustment according to Brazilian legislation
- Additional pay for transfer
- Home trip travel expenses paid by employer after 2 years - vacation
- Termination at will
- FGTS deduction in case of an independent termination of the foreign contract
- Repatriation of employee



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Thank you

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