

Legal update

Minimum salary increase and adjustment of socialist food tickets for Venezuelan workers

November 2016 Labour

On October 28, 2016, the President of the Republic passed: (i) Decree N° 2,504 through which the national minimum salary was increased by 20% for all workers in the public and private sectors (Decree for the Increase of the Minimum Salary), and (ii) Decree N° 2,505 through which socialist food ticket amounts for workers was adjusted (Decree for the Adjustment of the Socialist Food Ticket). Both decrees were published in the Official Gazette N° 41,019 dated October 28, 2016, and the text was published in the Extraordinary Official Gazette N° 6,269 dated October 28, 2016. Hereinafter we point out the most significant aspects of both decrees.

Minimum salary

National Minimum Salary

The decree increased the national minimum salary for workers by 20%, effective from November 1, 2016, on, notwithstanding the number of workers who work for a certain employer:

Category	(Day shift)	
	Monthly	Daily
Workers in the public and private sectors	Bs. 27,092.10	Bs. 903,07
Adolescents/ Apprentices	Bs. 20,147.90	Bs. 671.59

According to the provisions of article 172 of the Organic Labour Law for the Workers (OLL) and Article 6 of the Decree for the Increase of the Minimum Salary, the minimum salary of workers hired part time may be paid prorated to the agreed shift.

Retirees and Pensioners

The decree adjusted the pensions of retirees and pensioners in the National Public Sector to the same amount fixed as minimum salary, that is Bs. 27,092.10 per month from November 1, 2016, on.

Therefore, the decree sets the minimum amount for pensions granted by the Venezuelan Institute of Social Security (VISS) at Bs. 27,092.10 per month from November 1, 2016, on.

Method of Payment

According to the Decree for the Increase of the Minimum Salary, the minimum salary must be paid in cash and no salary in kind shall make up such minimum salary.

Penalty

Article 7 of the Decree for the Increase of the Minimum Salary establishes that if the employer pays a salary lower than the one set as the minimum national salary, the employer shall be penalized in accordance with article 533 of the OLL, with a fine not lower than 120 Tax Units¹ (TU), and not higher than 360 TU.

Effect of salary increase on labour laws

Many labour benefits and obligations are based on the minimum salary. Below we show how the increase in the minimum salary affects the most important labour benefits and obligations set forth under Venezuelan labour law:

Comprehensive care for workers' children

According to articles 343 and 344 of the OLL and to articles 101 and 102 of the Regulations of the abrogated Organic Labour Law² (ROLL) still in force, any employer who employs more than 20 workers must offer a childcare or initial education service during the working shift for workers with children from three months to six years of age and whose salary is lower than five minimum salaries, which from November 1, 2016, is Bs. 135,460.50. If the employer elects to comply with this obligation by paying a monthly amount to an institution duly authorized by the Ministry of People's Power for the Family, such monthly payment must be equal to 40% of the minimum salary, which from November 1, 2016, on shall be Bs. 10,836.84 for registration fees and monthly fees.

Para-fiscal Contributions

Social Security (Health and Pensions):

- Employer's Rate: 9 to 11%.
- Employee's Rate: 4%.
- Maximum Amount of Minimum Salaries: Bs. 135,460.50 from November 1, 2016.
- Calculation Basis of Minimum Salaries: Five minimum salaries.
- Base Salary: Normal Salary.

Employment Benefits Regime³:

- Employer's Rate: 2%
- Employee's Rate: 0.5%
- Maximum Amount of Minimum Salaries: Bs. 270,921.00 from November 1, 2016.
- Calculation Basis of Minimum Salaries: Ten minimum salaries.
- Base Salary: Normal Salary.

Effective Date

The Decree for the Increase of the Minimum Salary became effective on November 1, 2016.

Socialist food tickets

Value of the meal allowance

The Decree for the Adjustment of the Socialist Food Ticket adjusted the basis for calculating the benefit of food tickets for public and private sector workers to 12 TU per day, for 30 days per month, up to a monthly maximum of 360 TU (currently Bs. 2,124.00 daily and Bs. 63,720.00 per month).

Likewise, pursuant to Article 4 of the Decree for the Adjustment of the Socialist Food Ticket, public and private employers that give the benefit through a provision of food in accordance to Article 4, numbers 1 through 4 of the Decree with Force of Law of Socialist Food Ticket for Male and Female Workers, must pay, in addition to the provision of food, the benefit by coupons or tickets or a card with a value of 12 TU per day, 30 days per month, up to a maximum of 360 TU per month (currently Bs. 2,124.00 daily and Bs. 63,720.00 per month), while the economic emergency is in force.

Effective Date

The Decree for the Adjustment of the Socialist Food Ticket became effective on November 1, 2016.

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Footnotes

¹ A Tax Unit is currently equal to Bs. 177, Administrative Provision No. SNAT/2016/0006, Official Gazette N° 40,846 dated February 11, 2016.

² Regulations of the Organic Labour Law, Official Gazette N° 38,426 dated April 28, 2006.

³ Law on Employment Benefits Regime, Official Gazette N° 38,281, dated September 27, 2005.

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