

Legal update

Minimum salary increase and adjustment of socialist food tickets for workers

August 2016 Labor

On August 12, 2016, the President of the Republic passed: (i) Decree No. 2,429 granting a 50% increase in the national minimum salary to all workers in the public and private sector, and (ii) Decree No. 2,430 adjusting payment of the Socialist Food Ticket for workers. Both decrees were published in the Official Gazette No. 40,965 dated August 12, 2016. The most significant aspects of both decrees are as follows.

Minimum salary

National Minimum Salary

The minimum salary decree fixed a 50% increase in the national minimum salary for workers, effective September 1, 2016, notwithstanding the number of workers who work for a given employer:

Category	(Day shift)	
	Monthly	Daily
Workers in the public and private sectors	Bs.22,576.73	Bs.752.56
Adolescents/ Apprentices	Bs.16,789.92	Bs.559.66

According to the provisions of article 172 of the Organic Labor Law for Workers (“OLL”) and article 6 of the decree, the minimum salary of workers hired as part-time workers may be prorated to the agreed shift.

Retirees and Pensioners

The decree approved an adjustment to the pensions of retirees and pensioners in the National Public Sector to match the minimum salary, that is Bs.22,576.73 per month effective September 1, 2016.

Thus, the minimum amount for pensions granted by the Venezuelan Institute of Social Security (“VISS”) will be Bs.22,576.73 per month effective September 1, 2016.

Payment Mode

According to the decree, the minimum salary must be paid in cash and no portion may be paid in kind.

Penalty

Article 7 of the decree provides that in the event the employer pays a salary lower than the one fixed as the minimum national salary, it will be penalized in accordance with article 533 of the OLL, with a minimum fine of 120 Tax Units¹ ("TU") and a maximum fine of 360 TU.

Effective date

The minimum salary decree will be effective September 1, 2016.

Incidence of salary increase on labor laws

In the labor laws, many labor benefits and obligations are fixed in accordance with the minimum salary. The variations the increase in the minimum salary will cause in the most important labor benefits and obligations under Venezuelan labor laws are as follows:

Integral care for workers' children

According to articles 343 and 344 of the OLL and articles 101 and 102 of the Regulations of the repealed Organic Labor Law² ("ROLL") that are still in force, any employer that employs more than 20 workers must offer child care or early education service during the work shift for workers with children from three (3) months to six (6) years of age whose salary is lower than five minimum salaries. From September 1, 2016 the threshold salary will thus be Bs.112,883.65. 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, the monthly payment must be equal to 40% of the minimum salary, which from September 1, 2016 will be Bs.9,030.69, 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 salary on which contributions are based: Bs.112,883.65 effective September 1, 2016.
- Calculation basis: Five minimum salaries.
- Base salary: normal salary.

Employment Benefits Regime³

- Employer's rate: 2%
- Employee's rate: 0,5%
- Maximum salary on which contributions are based: Bs.225,767.30 effective September 1, 2016.
- Calculation basis: Ten minimum salaries.
- Base salary: normal salary.

Socialist food tickets

Value of the food benefit

The decree adjusting the socialist food ticket increases the basis for calculation of the food ticket benefit for workers who work in the public and private sectors to eight (8) TU per day, for 30 days per month, up to a monthly maximum of 240 TU (currently Bs.1,416.00 daily and Bs.42,480.00 per month).

Pursuant to article 4 of the decree, public and private employers that give the benefit through the provision of food in accordance with article 4, numbers 1 through 4, of the Decree with Force of Law on Socialist Food Tickets for Male and Female Workers, must pay, in addition to providing food, a benefit in the form of coupons or tickets or a card with a value of eight (8) TU per day, 30 days per month, up to a maximum of 240 TU per month (currently Bs.1,416.00 per day, and Bs.42,480.00 per month), while the economic emergency is in force.

Effective date

The decree adjusting the socialist food ticket is effective as of August 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 No. 40,846 dated February 11, 2016.
- ² *Regulations of the Organic Labor Law*, Official Gazette No. 38,426 dated April 28, 2006.
- ³ *Law on Employment Benefits Regime*, Official Gazette No. 38,281, dated September 27, 2005.

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