

Legal update

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

January 2018 Labour

On December 31, 2017, the President of the Republic passed: (i) Decree N° 3,232 through which a 40% increase in the national minimum salary was granted to all public and private sector workers and the special bonus for pensioners (Decree for the Increase of the Minimum Salary) was updated, and (ii) Decree N° 3,233 through which socialist food ticket payments for workers was increased and the payment system was also modified (Decree for the Adjustment of the Socialist Food Ticket). Both decrees were published in the Extraordinary Official Gazette N° 6,354 dated December 31, 2017. 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 40%, effective from January 1, 2018, 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. 248,510.41	Bs. 8,283.68
Adolescents / Apprentices	Bs. 186,382.81	Bs. 6,212.76

According to the provisions of article 172 of the Organic Labour Law for the Workers (OLL) and Article 7 of the Decree for the Increase of the Minimum Salary, the minimum salary of part-time workers 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. 248,510.41 per month from January 1, 2018, on.

Therefore, the decree set out a minimum amount for pensions granted by the Venezuelan Institute of Social Security (IVSS) to Bs. 248,510.41 per month from January 1, 2018, on.

Also, the Decree for the Increase of the Minimum Salary establishes a “Economic War Special Bonus” for IVSS pensioners who usually receive a one minimum salary pension, analogous to 40% of a minimum salary, equivalent to Bs. 99,404.17 per month. If a pensioner receives more than one pension, the benefit will be received for just one of the pensions.

Method of payment

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

Penalty

Article 8 of the Decree for the Increase of the Minimum Salary sets out that if the employer pays a salary lower than the one fixed as the minimum national salary, the employer will be obliged to pay the difference that exists with the employment benefits according to article 130 of the OLL, and will also 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 in labour law

Under labour law, many labour benefits and obligations are calculated based on the minimum salary. Hereinafter we show how variations in the increase in the minimum salary will affect 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 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 January 1, 2018 amounts to Bs. 1,242,552.05. 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 January 1, 2018, on shall be the amount of Bs. 99,404.16 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. 1,242,552.05 from January 1, 2018.
- 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. 2,485,104.10 from January 1, 2018.
- Calculation Basis of Minimum Salaries: Ten minimum salaries.
- Base Salary: Normal Salary.

Effective date

The Decree for the Increase of the Minimum Salary shall become effective on January 1, 2018.

Socialist food tickets**Value of the meal allowance**

The Decree for the Adjustment of the Socialist Food Ticket adjusted the basis for calculating the food ticket benefit for public and private sector workers to 61 TU per day, for 30 days per month, up to a monthly maximum of 1,830 TU (currently Bs. 18,300.00 per day and Bs. 549,000.00 per month).

Preference for payment of the food benefit through tickets, coupons or electronic cards

Article 3 of the Decree for the Adjustment of the Socialist Food Ticket specifies that the employer must pay employees the amount to be received as the socialist food ticket benefit preferably through coupons, tickets or electronic cards issued by a financial entity or an establishment specialized in the management of social services; this amount should not have any effect on salary and cannot be deducted from the salary, unless the employee agrees with it because the employer is using the deduction for acquiring goods and services, in the context of the programs and social missions.

Termination of the additional payment of the food benefit in cash or by deposit in the payroll account

In accordance with article 5 of the Decree for the Adjustment of the Socialist Food Ticket, public and private sector employers that grant the benefit through a provision of food in accordance with the provisions of article 4, Nos. 1 to 4 of the Law of the Socialist Food Ticket for Workers, must do so through the provision of an electronic food card or preferably through coupons or food tickets and in accordance with the provisions of Article 3 of the Decree for the Adjustment of the Socialist Food Ticket.

With this, what is established in the previous Decrees for the Adjustment of the Socialist Food Ticket⁴ is without effect, where employers when required to grant the benefit through a provision of food in accordance with the provisions of article 4, Nos. 1 to 4 of the Decree with Rank, Value and Force of Law of the Basket Socialist Ticket for Workers, where temporarily obliged to pay in addition to the provision of food, the benefit of the Socialist Food Ticket in cash or by deposit in the worker's payroll account.

Resolution by which the ministry with competence could impose the obligation to pay the food benefit totally or partially through coupons, tickets or electronic cards

In accordance with Article 5 of the Decree for the Adjustment of the Socialist Food Ticket, prior approval of the Executive Vice President of the Republic, the Minister of Employment, considering the capacity and conditions of each

employer and after consulting with the workers, may impose on the employer by resolution, the obligation to pay all or part of the Socialist Food Ticket through coupons, tickets or electronic cards.

Effective date

The Decree for the Adjustment of the Socialist Food Ticket became effective on January 1, 2018.

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Footnotes

- ¹ A tax unit is currently equal to Bs. 300, Administrative Provision No. SNAT/2017/0003, Official Gazette N° 6.287 Extraordinary dated February 24, 2017.
- 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.
- ⁴ Decree N° 2.430 Official Gazette N° 40.965 August 12, 2016; Decree N° 2.505 Official Gazette E N° 41.019 October 28, 2016 Decree N° 2.833 Official Gazette E N° 6.296 dated May, 2, 2017; Decree N° 2.967 Official Gazette E N° 6.313 dated July, 2, 2017; Decree N° 3.069 Official Gazette N° 41.231 dated September 7, 2017; Decree N° 3.139 Official Gazette N° 41.269 dated November, 1, 2017.

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