

Legal update

Law on Socialist Food Tickets for the Workers

October 2015

Labour

On October 23, 2015, the President of the Republic issued a Decree with the Rank, Value and Force of Law on Socialist Food Tickets for the Workers (Law on Socialist Food Tickets)¹. Below we point out the newest aspects of the Law that we deem important:

Scope

Workers in the labour units in the public and private sectors shall receive the benefit of a balanced meal – the “Socialist Food Ticket – during the working shift.

Methods of fulfillment

The methods of complying with the food benefit are maintained, to wit:

- Installation of owned or hired canteens in the workplace or near them;
- Contracting of catering service provided by specialized businesses;
- Installation of common canteens by several working entities, near the workplace;
- Use of canteens administered by the entity in charge of nutrition;
- Delivery or provision of coupons or tickets, issued by specialized businesses; or
- Provision or delivery of an electronic food card issued by a financial entity or specialized business.

Similarly, the possibility of paying the food benefit in cash is maintained only for the exceptions listed in Article 5 of the Socialist Food Ticket Law, that is:

- Labour entities with fewer than 20 workers for which it is impossible or too expensive to meet the benefit through another mode;
- If circumstances prevent the workers from having timely access to the food selling business permitted in this Law, notwithstanding the number of workers employed by the employer, or

- If the benefit is granted through one of the modes described in paragraphs 1 to 4 inclusive, described above, and the worker stops receiving it as a consequence of:
 - Enjoyment of vacation;
 - Pre- and post-maternity leave;
 - Fatherhood license; or
 - Leave due to disease or accident not exceeding 12 months.

When the benefit is included in a collective bargaining agreement, the chosen method of fulfillment shall be adopted by common agreement between the employer and the relevant unions.

The employer shall guide the workers on the proper way to use coupons, tickets or electronic food cards.

Notification to the Labour Inspector's Office

The employer must notify the Labour Inspector's Office within five days following the implementation of the payment method of the benefit in cash only if it falls within the exceptions listed in paragraphs 1 and 2 of Article 5 of the Socialist Food Ticket Law, to wit: (i) Labour entities with fewer than 20 workers for which it is impossible or too expensive to meet the benefit through another mode; and (ii) If circumstances prevent the workers from having timely access to the food selling business permitted in this Law, notwithstanding the number of workers employed by the employer.

Value of the food benefit

When the benefit is granted through coupons, tickets, electronic cards, cash, or their equivalent, there is a fixed daily value for the benefit equivalent to 1.50 tax units (TU)² per day, 30 days per month, up to 45 tax units per month (currently Bs. 225 per day and Bs. 6.750 per month).

If labour collective bargaining agreements, collective agreements or labour contracts grant similar benefits, the employer shall only be obliged to adjust it to the provisions of the Socialist Food Ticket Law, if the benefits of the agreement are less favourable.

Salary character and evidence of granting

The food benefit shall not be part of the salary, unless such character is granted to it in collective bargaining agreements, collective agreements or individual labour agreements.

Invoices, certificates, statements of accounts or reports issued by working entities issuing electronic cards, as well as any agreements entered into, shall be evidence of the employer's fulfillment of the obligations.

Deduction for non-attendance

If the worker does not attend his/her working shift for reasons attributable to him/her, a portion of the benefit shall be deducted for the missed shift. Such portion shall be the result of dividing the total amount to be received by the worker for the relevant month by 30.

The deduction shall not be made if the non-attendance is attributable to the will of the employer or as a consequence of a risk, emergency, catastrophe or calamity situation affecting the worker but not the working entity, as well as in the case of vacation, leave due to disease or accident not exceeding 12 months, pre- and post-maternity leave or fatherhood license.

Specificacions in food coupons, tickets and electronic cards

The Socialist Food Ticket Law sets forth that the coupons, tickets and electronic cards must show, among other things, the following specifications: (i) The term Socialist Food Ticket; (ii) the sentence: "This socialist food ticket is not transferrable and is exclusively for the payment of food and meals. Its total or partial negotiation for money or other goods or services is prohibited." (Article 11 of the Socialist Food Ticket Law.)

Violations by workers

The exchange for money, financing or credit with the electronic food card and the exchange for payment of any good or service not for feeding the worker is violation punishable by a fine of 200% of the amount exchanged or the money received in the exchange for the ticket or coupon for money.

Fines

There are detailed violations for employers, food selling businesses and specialized businesses.

The fines for the infringements described in Articles 14, 15 and 16 of the Socialist Food Ticket Law shall be between 100 and 200 tax units.

For specialized businesses or food selling businesses, the penalty shall include temporary closing and cancellation of the relevant qualification.

A working entity failing to comply with the granting of the food benefit shall be penalized by fines between 10 and 50 tax units per affected worker, and the Office of the Labour Inspector shall be the entity to impose such fines.

Effective date

From its publishing in the Official Gazette.

Temporary regime

A term of 30 days from the date of publishing in the Gazette is granted for the Labour Inspector to notify working entities to comply with the benefit of the payment in cash according to the exceptions set forth in paragraphs 1 and 2 of Article 5 of the Socialist Food Ticket Law.

A term until December 31, 2015, is granted to adapt the coupons, tickets and electronic cards to the new characteristics set out in Article 11 of the Socialist Food Ticket Law.

Coupons, tickets and electronic food cards already issued shall maintain their validity and effectiveness until their date of expiry.

Revocatory provision

The Decree with the Rank, Value and Force of a Law for the Partial Reform of the Food Law for Workers is revoked³.

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Footnotes

- ¹ Decree # 2,066 Official Gazette of the Bolivarian Republic of Venezuela ("GORBV") # 40 773, dated October 23, 2015.
- ² Tax Unit equivalent to Bs.150, Administrative Ruling # SNAT / 2015/0019, GORBV # 40.608, dated February 25, 2015.
- ³ Decree # 1.393GORBV # 6.147 Extraordinary, dated November 17, 2014.

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