

## Legal update

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

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#### November 2017 Labour

On November 1, 2017, the President of the Republic passed: (i) Decree N° 3,138 through which a 30% 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° 3,139 through which socialist food ticket payments for workers was increased (Decree for the Adjustment of the Socialist Food Ticket). Both decrees were published in the Official Gazette N° 41,269 dated November 1, 2017. Hereinafter we point out the most significant aspects of both decrees.

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#### Minimum salary

##### National minimum salary

The decree increased the national minimum salary for workers by 30%, effective from November 1, 2017, 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. 177,507.44	Bs. 5,916.91
Adolescents/Apprentices	Bs. 133,130.58	Bs. 4,437.68

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. 177,507.44 per month from November 1, 2017, on.

Therefore, the decree set out a minimum amount for pensions granted by the Venezuelan Institute of Social Security (VISS) to Bs. 177,507.44 per month from November 1, 2017, on.

Also, the Decree for the Increase of the Minimum Salary establishes an “Economic War Special Bonus” for IVSS pensioners that usually receive a one minimum salary pension, analogous to 30% of a minimum salary, equivalent to Bs. 53,252.23 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 in cash and no salary 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 units<sup>1</sup> (TU), and not higher than 360 TU.

### **Effect of salary increase in labour laws**

Many labour benefits and obligations are based on the minimum salary. We show below how the increase in the minimum salary affects the most important labour benefits and obligations set forth in Venezuelan labour laws:

#### *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 Law<sup>2</sup> (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, 2017, amounts to Bs. 887,537.20. 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, 2017, on shall be Bs. 71,002.97 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. 887,537.20 from November 1, 2017.
- Calculation Basis of Minimum Salaries: Five minimum salaries.
- Base Salary: Normal Salary.

**Employment Benefits Regime<sup>3</sup>:**

- Employer's Rate: 2%.
- Employee's Rate: 0.5%.
- Maximum Amount of Minimum Salaries: Bs. 1,775,074.40 from November 1, 2017.
- 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, 2017.

**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 31 TU per day, for 30 days per month, up to a monthly maximum of 930 TU (currently Bs. 9,300 per day and Bs. 279,000 per month).

Article 3 of the Decree for the Adjustment of the Socialist Food Ticket specifies that the employer must pay employees in cash or with a transfer to the employee's payroll account, the amount to be received by the employee as the socialist food ticket benefit. As a result, the employer should send separate receipts to its workers, which must show the amount paid, the number of days, and information that this amount should not have any effect on salary. There can be no deduction from this amount, 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.

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 in cash or with a transfer to the employee's payroll account with a value of 31 TU per day, 30 days per month, up to a maximum of 930 TU per month (currently Bs.9,300.00 per day and Bs.279,000.00 per month), while the economic emergency is in force.

Decree N° 2,833 dated May 2, 2017, published in the Official Gazette of the Bolivarian Republic of Venezuela N° 6,6296, provides that in the case of coupons, food tickets or electronic meal cards that have already been issued, these payment methods will be in force until December 31, 2017, and such payment methods can be used in establishments that accept them.

**Effective date**

The Decree for the Adjustment of the Socialist Food Ticket became effective on November 1, 2017.

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## Footnotes

- <sup>1</sup> 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.
- <sup>2</sup> Regulations of the Organic Labour Law, Official Gazette N° 38,426 dated April 28, 2006.
- <sup>3</sup> Law on Employment Benefits Regime, Official Gazette N° 38,281, dated September 27, 2005.

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