

## Legal update

### Minimum salary increase decree in Venezuela

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#### September 2018 Labour

On August 31, 2018, the President of the Republic passed: (i) Decree N° 3,601 through which the national minimum salary (Decree for the Increase of the Minimum Salary) was increased to BsS. 1,800, granted to all public and private sector workers, and the retirement pay for pensioners was updated and set at BsS. 1,800; and (ii) Decree N° 3,602 through which socialist food ticket payments for workers was set (Decree for the Adjustment of the Socialist Food Ticket) at BsS. 180 per month. Both decrees were published in the Extraordinary Official Gazette N° 6,403 dated August 31, 2018.

Hereinafter we point out the most significant aspects of both decrees:

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#### Minimum salary

##### National minimum salary

The Decree for the Increase of the Minimum Salary increased the national minimum salary for workers by 6,000%, effective from September 1, 2018:

Category	(Day shift)	
	Monthly	Daily
Workers in the public and private sectors	BsS. 1,800	BsS. 60
Adolescents / Apprentices	BsS. 1,350	Bs. 45

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 part-time workers may be paid prorated to the agreed shift.

## **Retirees and pensioners**

The Decree for the Increase of the Minimum Salary sets out a minimum amount for pensions granted by the Venezuelan Institute of Social Security to BsS. 1,800 per month from September 1, 2018, 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 portion in kind shall make up such minimum salary.

## **Penalty**

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 on labour law**

Under labour legislation, 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 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 September 1, 2018, amounts to BsS. 1,800. 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 September 1, 2018, on shall be the amount of BsS. 720 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: BsS. 9,000 from September 1, 2018.
- 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: BsS. 18,000 from September 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 became effective on September 1, 2018.

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

The Decree for the Adjustment of the Socialist Food Ticket sets at BsS. 180 per month the Socialist Food Ticket for public and private sector workers. Article 3° of the Decree for the Adjustment of the Socialist Food Ticket specifies that 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.

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

The Decree for the Adjustment of the Socialist Food Ticket specified that the Socialist Food Ticket must be granted through the provision of an electronic food card or preferably through coupons or food tickets issued by the financial entity or specialized establishment managing social services. However, it also stated that the alternatives set out in numbers 1 to 4 of the Decree with Rank, Value and Force of Law of the Basket Socialist Ticket for Workers, are in force, with the above-mentioned preferences.

**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**

The Decree for the Adjustment of the Socialist Food Ticket stated that with prior approval of the Executive Vice President of the Republic, the Minister of Employment may impose on the employer, 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 September 1, 2018.

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## Footnotes

- <sup>1</sup> *A tax unit is currently equal to Bs.S 0,0120 , Administrative Provision No. SNAT/2018/0120, Official Gazette Extraordinary N° 6.383 June 16, 2018 and Central Bank of Venezuela Resolution N° 18-07-02..*
- <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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