

## Legal update

### Venezuela – Adjustment of the Tax Unit Value

---

#### March 2018

#### Tax

Administrative Ruling N° SNAT/2018/0017 (the Ruling) was published in the Official Gazette of the Bolivarian Republic of Venezuela N° 41,351 dated March 1, 2018, through which the National Tax Authorities (SENIAT) adjusted the value of the tax unit (TU) from 300.00 Bs. (Bolivars) to 500.00 Bs.

Among the most relevant tax implications of the increase in the TU's value is the change in the minimum amount required for individuals to qualify as payers of income tax, as well as the minimum amount of wages, salaries and other contributions subject to the withholding of such tax (namely, Bs. 500,000.00 or 1,000.00 TU).

The TU increase will have an impact on the determination of special taxpayers, who can act as income tax or Value Added Tax (VAT) withholding agents, and are subject to the Tax on Large Financial Transactions. In this regard, the SENIAT will be entitled to appoint companies that declared a gross income higher than 15,000,000.00 Bs (30,000 TU) in their latest income tax return or realized sales of more than 1,250.00 Bs. (2,500 TU) according to their latest VAT returns.

In the case of taxes collected annually (such as income tax), the applicable TU will be the one that has been in effect for at least 183 days during the relevant fiscal year. In practical terms, this means the TU change will not apply to 2017 income tax returns filed or to be filed in 2018 by individuals or corporate taxpayers. In the case of other taxes that are not levied annually, the applicable TU will be the one effective at the beginning of the taxable period.

The increase in the TU's value also affects the taxable base for those obligated to make contributions to the Sports Fund, since such contributions will now be payable by all companies or other public or private organizations that carry out economic activities within the country and earn annual net profits of more than Bs. 10,000,000.00 (20,000 TU).

Furthermore, those required to make contributions to the Science & Technology Fund must consider that the increase in the TU's value means that the taxable base for public and private businesses with income above 100,000.00 TU will now be Bs. 50,000,000.00.

#### Labour matters

Regarding labour matters, all employers from both the private and public sectors are obliged to grant the legal meal allowance to their employees. Hence, in order to comply with the Law on Socialist Food Tickets for the Workers and Presidential Decree N° 3,233 dated December 31, 2017, the legal meal allowance will have a fixed daily value equivalent to 61 TU, 30 days per month, up to a maximum of 1,830 TU per month (currently Bs. 30,500.00 per day and Bs. 915,000.00 per month).

## Other implications

The increase in the value of the TU will affect the calculation of levies, contributions, guarantees and procedural benefits, among other items that are based on the TU's value. In this regard, it is worth noting the law that establishes the Calculation Factor of Contributions, Penalties, Procedural and other Benefits in Currently Existing Laws<sup>1</sup> replaced the minimum wage with a value in bolivars equivalent to 3 TU in all existing laws, with the exception of labour and social security legislation, as the basis for calculating contributions, guarantees, penalties and procedural and other benefits.

Penalties that were previously calculated based on the TU value must now be calculated based on the value of the "Sanctioning Tax Unit," as set forth in the Constitutional Law enacted by the National Constituent Assembly on the creation of the Sanctioning Tax Unit<sup>2</sup>.

Carlos Fernández S.  
Fernando Fernández B.  
Leopoldo Escobar  
Luis de Freitas  
Yeoshua Bograd

## Footnotes

<sup>1</sup> Published in Official Gazette N° 36.362 on December 26, 1997.

<sup>2</sup> Published in Official Gazette No. 41,305 on December 21, 2017.

For further information, please contact one of the following lawyers:

> <b>Carlos Fernández S.</b>	Caracas	+58.212.276.0006	<a href="mailto:carlos.fernandez@nortonrosefulbright.com">carlos.fernandez@nortonrosefulbright.com</a>
> <b>Fernando Fernández B.</b>	Caracas	+58.212.276.0048	<a href="mailto:fernando.fernandez@nortonrosefulbright.com">fernando.fernandez@nortonrosefulbright.com</a>
> <b>Leopoldo Escobar</b>	Caracas	+58.212.276.0029	<a href="mailto:leopoldo.escobar@nortonrosefulbright.com">leopoldo.escobar@nortonrosefulbright.com</a>
> <b>Luis de Freitas</b>	Caracas	+58.212.276.0031	<a href="mailto:luis.defreitas@nortonrosefulbright.com">luis.defreitas@nortonrosefulbright.com</a>
> <b>Yeoshua Bograd</b>	Caracas	+58 212.276.2842	<a href="mailto:yeoshua.bograd@nortonrosefulbright.com">yeoshua.bograd@nortonrosefulbright.com</a>

Norton Rose Fulbright Canada LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients.

References to "Norton Rose Fulbright", "the law firm", and "legal practice" are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together "Norton Rose Fulbright entity/entities"). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a "partner") accepts or assumes responsibility, or has any liability, to any person in respect of this communication. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.