

FACT SHEET

INSS: The Brazilian Salaries and Benefits

15/05/2017

OVERVIEW

Labor law is governed by a code called the CLT (“Consolidação das Leis do Trabalho”).

The INSS (National Institute of Social Security) manages the pension system and social security.

Social law is highly developed in Brazil. Although it is quite easy to dismiss an employee in Brazil (certainly easier than in most of countries of continental Europe), regulations grant employees many rights of appeal. Thus, there are nearly 2 million lawsuits filed before the Labor Court each year.

On the other hand, staff turnaround is very high compared to Western standards, this being rather part of Brazilian culture than just the result of a booming economy with low unemployment.

REGULATORY

For the employment contract to be valid, the following conditions are necessary:

- registration with the INSS,
- establishment of the Fund of Guarantee for the Time in Service (FGTS – Provident Fund),
- entry in the Annual Social Report (RAIS).

The trial period is 90 days. The employee must have a personal record book (Carteira de Trabalho, or CTPS), containing the detailed list of past work experience and social security information. This document traces the entire career of the employee (list of employers, positions held, dates of recruitment and breach of contract, remuneration, etc.).

THE FGTS

The employer should open for each of its employees a reserve fund (Fund of Guarantee for the Time in Service). Each month, an amount equivalent to 8% of the gross salary (+13th month, holidays, and bonus) is paid on this FGTS. This 8% is withheld in the paylips.

Excepting cases of resignation, when the employee leaves the company, the amount of accumulated FGTS is paid to him/her. Moreover, there can be a severance payment equal to 50% of the accumulated amount of FGTS (40% to the dismissed employee, and 10% to social security).

In case of resignation, the amount of FGTS is not paid to the employee. Nonetheless the employee never loses the benefits of this amount: the accumulated amount is held until the employee faces a future lay off.

WORK TIMES

The legal working time is regulated by the Labor Code and collective agreements. It cannot be longer than 8 hours daily, 44 hours per week and 220 hours monthly.

The amount of overtime is limited to 2h per day, and is paid at least 50% more. Overtime is not paid to executives.

LEAVE

Leave can only be taken after a period of 12 months of employment with the company. Every year, the duration of paid holidays is 30 consecutive days. It is important to note that these are 30 calendar days and not 30 working days (i.e. 4 weeks + 2 days).

WAGES

In 2014, the federal minimum monthly wage was 724 R\$. It is reviewed annually, and varies among states and professions.

In addition to salary, the company must pay a number of benefits; the most significant are:

- premium on paid holidays: salaries paid during paid holidays are 33% above the normal salary received by the staff,
- the 13th month, paid in two equal parts, in February and in November,
- transport allowance, not subject to payroll taxes, nor taxed on income,

Moreover, given the poor quality of public health services, many companies choose to offer a health plan (“Plano de Saúde”) to their employees.

TAXES AND CHARGES ON LABOUR

The charges on labor are many. In total, an employee can cost up to 100% more than his net wage. An indicative list is presented below:

Compulsory Contributions:

- Social Security (INSS): 20%
- FGTS: 8%
- Financing of Training: 2.5%
- Accidents (average): 2%
- Sesi / Sesc / Sis: 1.5%
- Senai / Senac / Senate: 1%
- Sebrae: 0.6%
- Incra: 0.2%

Subtotal: 35.80%

Time not worked – 1

- Weekly rest: 18.91%
- Leave allowances: 9.45%
- Bank Holidays: 4.36%
- Financing of disability: 0.55%

Subtotal: 33.27%

Time not worked – 2

- 13th salary: 10.91%
- Charge for breach of contract: 3.21%

Subtotal: 14.12%

Grand total: 83.19%

The employer is required to comply with the guide to social welfare, which lists the various payroll taxes.

SIMPLIFIED EXAMPLE INCLUDING INCOME TAX

Assuming that the employee demands a net income of 25.000 R\$, after Income Tax, the cost for the company will be 52.920 R\$; more than twice the amount received by the employee. See hereafter the key numbers of his payslip:

Salary	
Gross salary	33.870,05
INSS employee	430,78
Income Tax	8.439,27
Net salary	25.000,00
INSS cpy	9.754,57
FGTS cpy	2.709,60
13º Month	2.822,50
Holidays	3.763,34
Total cost	52.920,07

TURN CONSULTANT IN BRAZIL

One classical way of avoiding paying social charges and income tax is for an executive to set up his own company. Most of time, the company will be a Limited company (*Ltda*), with the “Presumido” or “Simples” method of taxation.

Partners of this company will then be able to be Consultants. Instead of receiving a salary from an employer, they will issue invoices to their clients (*Nota Fiscal*). The amount charged through the invoices can be decided by both the client and the consultant in order to reach a financial win-win situation. For example, if

the amount of taxes saved monthly is 5,000 R\$, they can decide to split the benefits between them, equally or not.

Despite being common practice in Brazil, this solution might not be accepted by the tax administration. In case of control, the auditors might ask the following questions:

- Does the consultant have, and use his own business cards?
- Is he using the consulting company email address while working for his client?
- Does the company offer to the consultant benefits normally offered to its staff?
- Is there a hierarchical relationship?

If the tax administration, after investigation, decides that the relationship between the client and the consultant is actually a social relationship, then it might ask:

- the company to pay all past years social charges due,
- the individual to pay income tax on his income.

The consultant's Limited company will have to pay Corporate Tax. Then, the consultant will pay himself with the dividend of his Limited company. There is no income tax on dividends.

Example of a comparison

Employee vs. Consultant

If an employee making 25,000 R\$ net of income tax, turns consultant and still demands 25,000 R\$, the cost for the company would be 29,879 R\$ (instead of 52,920 R\$). This is a 44% discount for the company. See below the key numbers of the consulting company; the turnover is the total amount charged to the client:

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Consultant thru Cpy	
Turnover	29.879,29
ISS	1.493,96
PIS	194,22
COFINS	896,38
IRPJ	1.434,21
CSLL	860,52
Net profit	25.000,00