

Seizing opportunities



Labor/Payroll Alert Brazil

Latest Labor and Payroll News in Brazil

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BRASIL – REFORMA TRABALHISTA

> Notícia

Um dos maiores obstáculos mencionados por investidores e empreendedores no Brasil foi endereçado em uma recente substancial reforma que impactará muitos de nossos clientes.

Trata-se de uma reforma trabalhista significativa – recentemente sancionada pelo Presidente Michel Temer e promulgada, em 13.07.2017, pela Lei n. 13.467/2017 – que modificou inúmeras disposições constantes da legislação trabalhista brasileira, e entrará em vigor em 120 dias de sua publicação, vale dizer, 13 de novembro de 2017 .

Em linhas gerais, a Reforma busca tornar o mercado de trabalho brasileiro mais competitivo e flexível, reduzir incertezas e imprevisibilidades nas decisões judiciais e permitir maior autonomia e poder de negociação entre empregadores e empregados. Dentre outros pontos tratados na reforma, destacam-se:

Relevante aos sócios

- Alterações na definição do conceito de grupo econômico e nas regras para desconsideração da personalidade jurídica
- Limitações à responsabilidade trabalhista dos sócios que se retiram da sociedade, assim como nos casos de sucessão de empregadores

Relevante aos empregadores

- Prevalência sobre a lei, em certos temas, das convenções coletivas e acordos entre empregadores e empregados

THE BRAZILIAN LABOR REFORM

> News

One of the major obstacles for investors and entrepreneurs in Brazil has been now addressed by a substantial reform, that may have major impact for our clients.

A significant Labor reform (recently sanctioned by Brazilian President Michel Temer and enacted, on July 13th, 2017, by Law # 13.467/2017) amends several provisions of Brazilian Labor Rules. It will come into force in 120 days of its publication, that is, on November 13th, 2017.

Basically the reform aims to make the Brazilian labor market more competitive and flexible, reduce the uncertainties and the unpredictability of the labor courts' decisions and allows more bargaining rights and autonomy between employers and employees. Among other changes, the overhaul provides:

Relevant for shareholders

- Changes in definition of the economic group concept and the procedures regarding the disregard of the legal entity
- Limitation to the withdrawing shareholders' and succession of employers on what regards labor liability

Relevant for employers

- More leeway in certain topics to collective bargaining and negotiations between employers and employees, which shall prevail over provisions established by law

> Notícia

Relevante aos contratos de trabalho

- Alterações nas regras relacionadas à jornada de trabalho, horas extras, intervalos e férias
- Maior flexibilidade nos contratos temporários e regimes de jornada parcial
- Novas regras relacionadas a home office (teletrabalho), acordos de compensação e Banco de horas, assim como horas de deslocamento para o trabalho
- Alterações nas regras relacionadas ao término das relações de emprego
- Novas regras autorizando o pagamento de benefícios adicionais, bônus e ajudas de custo, ainda que de forma habitual, sem caracterização de natureza salarial
- Novas determinações referentes ao tema da equiparação salarial
- Possibilidade de contratação de prestadores de serviço independentes e terceirização das atividades da empresa, ainda que relacionada com sua atividade fim

Relevante para temas judiciais

- Homologação de acordo extrajudicial pela Justiça do Trabalho
- Possibilidade de arbitragem para solução de conflitos com empregados que recebam mais de R\$ 11.063,00
- Limitações à Justiça do Trabalho para análise somente de elementos essenciais nos Acordos e Convenções Coletivas e proibição quanto à criação de obrigações que não estejam previstas em lei
- Critérios para fixação de indenização por danos morais e limitação quanto aos valores máximos a serem pagos, os quais serão arbitrados em razão da natureza da ofensa

> News

Relevant for the employment agreements

- Changes on the regulation regarding working hours, overtime, breaks and holidays
- More flexibility for part-time work and temporary contracts
- New rules regarding home office (Telecommuting), agreements for offsetting of hours or Bank of hours System and commute-to-work time
- Changes of the rules regarding the termination of employment relations
- New rules allowing the payment of some additional benefits, bonus and allowances, even on a regular basis, without being considered as part of employee's salary
- New rules concerning equal-pays for equal-work
- Permission to the companies to hire independent service providers and to outsource any kind of activities, including its core business

Relevant for Judiciary affairs

- Ratification by the Judge of out-of-court agreements
- Possibility of arbitration procedures to settle disputes with employees that earn more than BRL 11.063,00
- Labor Courts limitations to analyze only essentials elements in a collective Agreement or prohibition to create obligations not provided under the law
- Criteria for the establishment of moral damage compensation and maximum amount for the indemnification based on the nature of the offense

> Notícia

Relevante sobre os Sindicatos

- Dentre outras alterações, fim da obrigatoriedade da contribuição sindical

Considerações Preliminares

- Tema controverso desde o princípio, considerando especialmente que direitos trabalhistas listados na Constituição Federal não podem ser objeto de negociação, tampouco redução ou supressão, observam-se ainda muitas dúvidas sobre a forma como os Tribunais trabalhistas interpretarão as medidas implementadas

A Rödl & Partner Brasil possui profissionais especializados que poderão prestar maiores esclarecimentos sobre as disposições objeto da reforma e reflexos nas atividades das empresas. Entre em contato com a nossa equipe de Consultoria e Payroll.

> News

Relevant for the Union Relation

- Among other changes, extinction of mandatory Union's contribution;

Preliminary Considerations

- Controversial since its beginning, especially considering that the labor rights listed in the Brazilian Federal Constitution cannot be object of negotiation, either for reduction or suppression, there are many open questions concerning how Brazilian Labor Courts will interpret the new provisions implemented.

Rödl & Partner Brazil has specialized professionals that could clarify in more details the main disposals of the Labor Overhaul and the related effects on company's business. Please contact our Consulting and Payroll Teams.

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Michael Löb

Head of Tax & Corporate Services | São Paulo

Tel: + 55 (11) 5094 – 6067

E-Mail: michael.loeb@roedl.pro



Pedro Paschoal

Senior Manager – Corporate Services | São Paulo

Tel: + 55 (11) 5094 – 6060

E-Mail: pedro.paschoal@roedl.pro



Karen Steuer

LatAm-Coordinator & Tax Manager | São Paulo

Tel: + 55 (11) 5094 – 6073

E-Mail: karen.steuer@roedl.pro



Guilherme Paludo

General & Tax Manager | Curitiba

Tel: + 55 (41) 3091 – 9855

E-Mail: guilherme.paludo@roedl.pro

Seizing Opportunities

"The factors that drive Brazil's growth are well-known – strong demographics, modernised infrastructure, and richness of natural resources. Brazil still offers diverse investment opportunities. It is not without reason that the metropolis of São Paulo is one of the world's largest industrial hubs. Seize with us the opportunities this market offers!"

"Every hand grasped, every foot put on the shoulders of another Casteller is an opportunity for us to create a brand-new constellation of a human tower. We only have to recognise that opportunity and – what is perhaps even more important – seize it with confidence."

Castellers de Barcelona



Each and every person counts" – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny" (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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Responsible for the content: Head of Tax & Corporate Services

Michael Loeb

Senior Manager – Corporate Services

Pedro Paschoal

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