

**LABOUR LEGAL CHANGES – JANUARY, 2019**

**I. NEW RULES ON WITHHOLDING TAX – 2019’s STATE BUDGET**

Law No. 71/2018 of December 31<sup>st</sup>, which approved the State Budget for 2019, established a special regime for the withholding of some dependent income (employees’ income).

As a result of the new drafting of Article 99-C of the Portuguese IRS Tax Code, the remuneration for additional work and the remuneration for years prior to the one in which they are paid or made available to the employee, shall be subject to an autonomous tax withholding, instead of being added to the other income paid in that month, for the purpose of determining the rate of withholding to be applied, as already happens with the holiday and Christmas allowances.

So, whenever there are overtime payments, the withholding rate to be applied to those amounts should be the same to be applied to the remaining income earned in the that month, excluding the amount effectively received to compensate overtime. Thus, the amounts received in order to compensate additional work will no longer be added to the base salary of the month in which they are paid or made available, answering only, for the purposes of determining the rate of withholding tax to be applied, to the amount of other income earned by the employee in that month.

Regarding the remuneration of previous years, it is foreseen that, for the purposes of determining the withholding rate to be applied, the amount earned shall be divided by the

sum of months to which they relate, being the withholding rate applied to the total remuneration.

Finally, it is also established that, when holiday and Christmas allowances of previous years are paid or made available, the tax to be withheld is calculated independently for each year in which the subsidies were due.

Since the withholding constitutes just a prepayment of the final tax due by employees, although this new scheme would lead to an increase in the employees' net income, in each month, it is expected to lead to a reduction in the amount of the tax reimbursement normally received by the beneficiary at the time of the Annual Tax Return (or even the need to pay tax, due to the reduction of amounts monthly withheld).

## **II. EMPLOYMENT QUOTA SYSTEM FOR PEOPLE WITH DISABILITY**

It was approved the law No. 4/2019, dated as of January 10<sup>th</sup>, that establishes a quota system for disable people, with a degree of disability equal or greater than 60% (evidenced by a medical certificate of disability issued by medical board), in order to promote their recruitment by employers in the private sector or by public entities which do not belong to central, autonomous or local governments.

For the purpose of this regulation, shall be considered as persons with disabilities those which by reason of loss or anomaly, congenital or acquired, of functions or structures of the body, including the psychological functions, have specific difficulties susceptible of, in conjunction with the factors, reduce or impede the activity and the participation on an equal terms with the other people, but who can exercise, without functional limitations, the

activities they apply for or, showing such limitations, that those may be overcome by adjustments or adaptations in the work place.

This scheme applies only to medium-sized companies with 75 or more employees and to large companies with 250 or more employees.

Therefore, those companies are obliged to respect the admissions' quotas, depending on their dimension, in the following terms:

- i) **the medium-sized companies, with a number equal to or greater than 75 employees**, must admit disabled employees, corresponding, at least, to 1% of the companies' employees<sup>1</sup>;
- ii) **large companies** must admit disabled employees, corresponding, at least, to 2% of the companies' employees<sup>2</sup>.

In order to fulfill of the abovementioned quotas' obligation, employers shall ensure, in each calendar year, starting in 2020, that at least 1% of the annual admissions are intended to people with disabilities.

The medium-sized companies with a workforce between 75 and 100 employees have the right to a transition period of five years to comply with the minimum quotas of admission above mentioned. Companies with more than 100 employees have a transition period of four years.

Can be excluded from the application of this law, the employers that request it to the Authority for Working Conditions (ACT), provided that such request is accompanied by

<sup>1</sup> Regarding to the average number of employees in the company in the previous calendar year, in all establishments or delegations.

<sup>2</sup> Regarding to the average number of employees in the company in the previous calendar year, in all establishments or delegations.

reasoned opinion issued by the National Institute of Rehabilitation (INR), which establishes the impossibility of an effective implementation of these requirements in a specific workplace. In addition, they are also excluded from the scope this law the trainees, interns, and service providers.

Finally, can also be exempted from compliance with the minimum quotas of admission, employers that do prove, to the ACT, the lack/insufficiency of candidates with disabilities, registered in employment services, that satisfy the requirements needed to fill the job offers presented by the company in the previous year, namely through a statement issued by the Institute of Employment and Professional Training.

### III. INDEX OF SOCIAL SUPPORT'S (IAS) UPDATE

It has been approved the Ordinance no. 24/2019, dated as of January 17<sup>th</sup>, which updated the value of the Index of Social Support (IAS), to be considered in 2019, for € 435,76.

This update entered in force in January 1<sup>st</sup>, 2019.

February 8<sup>th</sup>, 2019.

**TELLES DE ABREU E ASSOCIADOS**  
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