

# GMS Flash Alert

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## Brazil – New Labor Reform Law Published, Soon in Effect

On July 14, 2017, Brazil's Law 13.467/2017 was enacted, introducing several amendments popularly referred to collectively as the "labor law reform."<sup>1</sup> These reforms cover such rights and responsibilities as collective bargaining, vacation hours and pay, termination (severance) pay, the tax treatment of medical insurance contributions and travel allowances, etc., and set down the roles of employers, unions, and employees and the obligations governing relations between them. The Law also stipulates new rules around the effect on FGTS<sup>2</sup> when paying severance, as well as the impact on social security and FGTS calculations when providing travel allowances.

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### WHY THIS MATTERS

All employers in Brazil are obligated to comply with the new rules, and employees in Brazil, including international assignees in Brazil, subject to the country's labor laws, should be familiar with their rights and responsibilities under the new rules, as they will soon come into effect.

Failure by employers to fulfill their obligations under the new rules could lead to fines and other sanctions.

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### Highlights of New Law

Highlights of some of the Law's measures include:

- **Collective rules:** several labor-related issues may be subject to collective bargaining, and the terms agreed between the parties will take precedence over what is provided for in Brazilian law.
- **Vacations:** provided the employee agrees, vacations can be split up into three periods – one of which cannot be less than 14 calendar days, while the others can be less than five calendar days.

- **Time in transit** (*in itinere*): the time an employee spends commuting from home to his or her place of work, regardless of the method of transport, will not be computed for purposes of “the working day.”
- **“12 x 36” hours working arrangement:** the parties may agree, under an individual or collective bargaining agreement, to a 12-hour working day, followed by 36 hours of “rest,” with due regard for the weekly limit of 44 hours of work.
- **Dismissal by common agreement:** contracts of employment may be rescinded in common agreement between the parties, in which case the employee will be entitled to: half of the notice pay, if so compensated, a penalty of 20 percent on the balance of the FGTS fund, and the withdrawal of up to 80 percent of the amounts deposited, in addition to payment in full of the other severance pay-related items, apart from the employee’s access to unemployment insurance.
- **Travel allowances:** the new wording of article 28, paragraph 9, letter h of Law 8.212/91 stipulates that the amounts paid to the employee as travel allowances will not be factored into the calculation of social security and FGTS contributions (this excludes any reference to the 50-percent limit of the employee’s monthly compensation).
- **Medical assistance:** the new wording of article 28, paragraph 9, letter q of Law 8.212/91 stipulates that the amounts related to an employee’s insurance for medical and dental assistance will not be factored into the calculation of social security and FGTS contributions (this excludes any reference to the need for the benefits to fully cover all employees and managers of the company).

## Next Steps

The amendments introduced by Law 13.467/2017 will take effect 120 days following the Law’s publication, during which period an organization’s labor law practices and policies should be adjusted to accommodate the new requirements stipulated by the terms of the Law. If the Brazilian government publishes the related Provisional Measure in the days ahead, the recently published Law may be subject to modifications.

## RELATED ARTICLE

For a full report on this development, see (in Portuguese) “[Reforma Trabalhista: Lei n. 13.467/2017](#)” in *Tax News*, (24 Julho 2017) or (in English) “[Labor Law Reform: Law no. 13.467/2017](#),” in *Tax News*, publications of the KPMG International member firm in Brazil.

## FOOTNOTES:

1 Law 13.467/2017 (*Lei Ordinária nº 13467 de 13 de Julho de 2017*) was published in the *Diário Oficial da União* - Seção 1 - 14/7/2017 (Brazil’s official journal). Law 13.467/2017 formalizes and triggers the implementation of around 100 amendments to the Consolidated Labor Laws (*Consolidação das Leis do Trabalho* or “CLT”), in addition to amending Law 6.019/1974 (Temporary Labor and Outsourcing), Law 8.036/1990 (Employee Time of Service Guarantee Fund - FGTS) and Law 8.212/1991 (Social Security).

2 FGTS stands for “Fundo de Garantia do Tempo de Serviço,” which is a type of personal reserve savings scheme for employees.

## Contact us

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