

COVID-19 Status Update: Globalization Partners HR specialists in Brazil report that the government has declared public disaster status, and certain cities are starting to implement quarantine measures, including closing public places, gyms, malls and shutting down public transportation. Non-essential employees are working from home, and our team is advising clients on how to preserve employees while keeping business intact, and how to empower employees to work from home. We continue to keep all clients and employees on our platform informed and share information about benefits as the situation develops. We haven't seen any impact on hiring and recruiting; our clients continue to request our solution.

Globalization Partners provides **employer of record** services for clients that want to hire employees and run payroll without first establishing a branch office or **subsidiary in Brazil**. Your candidate is hired via Globalization Partners' Brazil **Professional Employer Organization (PEO)** in accordance with local labor laws and can be onboarded in days instead of the months it typically takes. The individual is assigned to work on your team, working on your company's behalf exactly as if he or she were your employee to fulfill your in-country requirements.

Table of Contents

- [Hiring, Negotiating and Doing Business in Brazil](#)
- [Employment Contracts in Brazil](#)
- [Working Hours in Brazil](#)
- [Vacation Leave in Brazil](#)
- [Sick Leave in Brazil](#)
- [Maternity/Paternity Leave in Brazil](#)
- [Termination/Severance in Brazil](#)
- [Employment Taxes in Brazil](#)
- [Health Insurance Benefits in Brazil](#)
- [Additional Benefits in Brazil](#)
- [Public Holidays in Brazil](#)
- [Variable Compensation](#)
- [Bonus in Brazil](#)
- [Pension Plan Contribution](#)
- [Probation Period in Brazil](#)
- [Non-compete Clauses in Brazil](#)
- [Why Globalization Partners](#)

Our **Global Employer of Record Platform™** and **Global PEO service** enables clients to run payroll in Brazil while HR services, tax, and compliance management matters are lifted from their shoulders onto ours. As a Global PEO expert, we manage employment contract best

practices, statutory and market norm benefits, and employee expenses, as well as severance and termination if required. We also keep you apprised of changes to local employment laws in Brazil.

Your new employee is productive sooner, has a better hiring experience and is 100% dedicated to your team. You'll have peace of mind knowing you have a team of dedicated employment experts assisting with every hire. Globalization Partners allows you to harness the talent of the brightest people in 170 countries around the world, quickly and painlessly.

Brazil is the largest country in South America, the 5th largest country in the world both by population and land area (occupying 47% of the continent), and it is the largest country of Portuguese speakers.

When negotiating terms of an employment contract and offer letter with an employee in Brazil, it may be useful to keep the following standard benefits in Brazil in mind:

Hiring, Negotiating and Doing Business in Brazil

The gross salary amount must be verbally agreed with the candidate and paid in the local currency. This is important to avoid question about personal income tax deduction down the line. Offer letters or similar documents should be provided to candidates when offering employment via a PEO or employment secondment company, as these are considered contractual documents in Brazil.

When negotiating salary, we instruct clients to discuss whether the employee will qualify for a 'position of trust' increase. If so, the salary should be broken down into 60% as the base plus 40% "position of trust" increase. A 'position of trust' essentially pertains to employees who are exempt from overtime as they are empowered with managerial authority. Tactically, most employers discuss the total amount which is inclusive of "position of trust" compensation. It's important to note this at the outset so that you don't have to go back to the negotiating table with your candidate, who might have thought he or she would be eligible for overtime if it has not been previously discussed. Employees' salaries increase automatically each year in accordance with rates negotiated by unions, usually in May. Most of the times the adjustment is done accordingly to the inflation rate. For Brazil Unions, the annual increases are usually around 5% to 8%, which only applies to the monthly salary and not the annual bonus.

Note that the principle of comparable pay applies in Brazil, whereby employees performing the same job function should have the same job titles and equal pay. When negotiating terms of an employment contract and offer letter with an employee in Brazil, it may be useful to keep the following in mind:

Employment Contracts in Brazil

In Brazil, [employment contracts](#) can be oral or written, but it best practice to put a strong, written contract in place, in Portuguese, which spells out the terms of the employee's compensation, benefits, and termination requirements. An offer letter and employment contract in Brazil should always state the salary and any compensation amounts in Brazilian Real rather than a foreign currency. The employment contract template is part of the service with Globalization Partners; no need to draft a separate template if you use our employer of record and PEO service in Brazil.

Working Hours in Brazil

The Brazil workweek is 44 hours, ideally eight hours per day (plus one hour for lunch) during the week and four hours on Saturday. Companies can choose to have longer workdays during the week and remain closed on Saturday.

The number of workweek hours is set by the government, and a major source of litigation in Brazil is overcompensation for overtime. Additionally, while you may have an agreed on a contract, the Brazilian courts tend to rule in a narrow fashion, usually on the side of the employee.

Vacation Leave in Brazil

Professionals in Brazil are entitled to 30 calendar days of vacation per year after each 12 months of service. The vacation period is typically taken in one block (or split 20 days and 10 days). In addition, the employee must be paid 1/3rd of a month's salary as holiday bonus. Holiday pay and holiday bonus payments are due pro-rated upon termination in Brazil.

Sick Leave in Brazil

If an employee is sick and provides a medical note, the first 15 days of absence must be paid. Any further days off are paid through the National Institute of Social Security (INSS), at fixed rates. Thereafter, benefits must continue to be paid until work is resumed or employment is ended.

Maternity/Paternity Leave in Brazil

- Women are entitled to 4 months' maternity leave and may not be dismissed during pregnancy or during the 12 months after birth.

- Private companies have the option to extend an additional 60 days of maternity leave and can deduct the additional salary paid to the employee during this time from their income taxes, not as an operational expense. The employee must request the additional 60-day increase before the end of the first month following the birth, the employee cannot render services or take part in any remunerated activity during this time, and the newborn child cannot be enrolled in a daycare center.
- Salary and benefits must be paid throughout the employment protection period.
- Men are entitled to 5 days of paid paternity leave, which they must request in advance.

Termination/Severance in Brazil

Either party may terminate the employment contract by giving written notice known as *aviso prévio* of 30 days or payment in lieu of working the notice period. After one year of service, the employee is entitled to 3 additional days' notice per completed year of service until 60 days are adding making the total possible prior notice period equivalent to 90 days. The final payment to the employee must include all of the following:

- normal pay up to the date of termination
- prorated untaken vacation pay
- prorated 13th salary
- prorated for all bonuses, overtime or benefits calculated up to the date of termination

As mentioned previously, union negotiations take place on May 1 each year. Mandatory salary increases are negotiated during this period and are due to every employee by law. The negotiations start on May 1 but usually last a couple of months, sometimes longer. After union negotiations have ended, it is mandatory that payment of salary increase is made, backdated to May 1. Sometimes employers who have terminated an employee between 1 May and when the union negotiations close have to go back and back-pay previously-terminated employees.

The variance includes the difference in the salaries as well as the difference between all employers' costs which we accrued and paid considering the previous salary and from what is due considering the salary increase (13th salary, vacation, vacation bonus, FGTS, etc.).

Termination by the employer triggers the payment of a penalty premium to the employee's individual account in the Unemployment Compensation Fund (FGTS) equivalent to 40% of the total of deposits made by the employer to the employee's individual account. This penalty premium does not apply if termination is for good cause.

Transfers of employment are only legal as a result of a joint venture or acquisition in Brazil.

In Brazil, it is possible to terminate an employee for just cause or without just cause.

- The law outlines 12 reasons to terminate with cause.
- Companies try to avoid termination with cause as this can lead to lawsuits.
- Employees who were fired with cause often have a difficult time finding a new job.

Termination without cause generally requires a minimum of 30 days notice or one month's salary. The employee is also entitled to an additional three days of salary for every year worked.

Companies must pay the equivalent of 8% of the employee's monthly salary into a holding account every month. Upon termination, the employee receives the balance of the account. If the termination was without cause, the company has to pay an additional 40% of the value of the account to the employee and 10% of the value of the account to the government.

Employment Taxes in Brazil

Employer's portion of social security or statutory benefits cost on top of salary in Brazil can be estimated as roughly 80% on top of the total salary costs for the average employee. To provide an example, a company hiring an employee at the USD equivalent of \$100,000 per year will end up paying at least \$180,000 when required employer taxes are added on top of the payroll.

FGTS (pension) accrual is payable at the end of the period of employment unless a worker resigns.

Health Insurance Benefits in Brazil

Health insurance is provided by the Brazilian government, although private health insurance is an increasingly common employee benefit.

Most benefits in Brazil are prescribed by law and there are very few negotiating points on benefits with the candidate. In addition to benefits described in other sections, there are heavy levies for various social charges that cover medical and other social welfare programs.

A supplementary medical and dental insurance is provided to all of the employees that are leased through [GP's Employer of Record service](#) in Brazil, and required as part of our collective bargaining agreement. The cost is part of the total benefits package offered by GP which is passed through as part of the monthly payroll calculations.

Additional Benefits in Brazil

Local employees' basic monthly benefits are mandatory and include a meal voucher, transportation voucher, life insurance, dental insurance and private medical insurance at a standard rate for a family of 3; in case we have larger families, or family members with pre-existing serious illness, private medical insurance value may suffer an increase.

Frequently provided benefits:

- Day care assistance
- Tuition assistance

Public Holidays in Brazil

As of 2016, there are 10 federal holidays in Brazil.

- New Year's Day
- Good Friday
- Easter Monday
- Tiradentes' Day
- Labour Day / May Day
- Independence Day
- Our Lady Aparecida/Children's Day
- All Souls Day
- Republic Proclamation Day
- Christmas Day

Public holidays may be legislated at the federal, statewide and municipal levels. Most holidays are observed nationwide, but each state and city may have its own holidays as well. Election days are also considered to be national holidays, and Brazil celebrates religious and ethnic holidays.

Variable Compensation

Rather than paying monthly commissions, annual bonus payout is the norm in Brazil. As long as initial negotiations do not suggest monthly or quarterly bonus payouts, then the candidate will usually be amenable to annual payouts. The reason behind this is a quirk in the requirements around assessment of social charges on commissions with those paid throughout the year carrying a very high social charge of 80% and those paid as an annual bonus being assessed at just 40%. However, the annual bonus should generally be limited to

50% of the base salary as the government will deem amounts over this to be regular salary.

For positions in which the pay structure is heavily dependent on commissions, the compensation can be structured to pay a monthly non-recoverable draw, which would be assessed for the full social charges amount of 80%, and then a reduced annual bonus, which would be taxed at a lower amount. GP recommend avoiding this if possible because it is much more expensive for the client and solely benefits the employee - the commission cannot be reclaimed by the client once paid. GP can assist its clients with negotiating variable payout structures as needed.

Bonus in Brazil

A 13th-month salary is required in Brazil and is an amount equal to one month's salary which is paid out to employees in two parts in November and December. The pro-rated 13th-month salary is also due upon termination. The 13th-month payment is a legally mandated benefit and not part of the base salary. During negotiations with candidates, it is important clearly state what salary is being offered and whether it is inclusive or exclusive of the 13th-month payment.

Pension Plan Contribution

Employers are required to contribute to a seniority payment/retirement savings fund known as Fundo de Garantia por Tempo de Serviço (FGTS), which is 8% of the remuneration paid in a special account (fund), which will be released to the employee if terminated without cause.

In addition to the monthly contribution, in case of termination without cause, the company must pay a fine of 40% of all the amounts deposited during the length of the contract existing in the employee's FGTS account on the termination date, plus another 10% over the FGTS balance to the Brazilian government.

Probation Period in Brazil

The maximum probationary period allowed in Brazil is 90 days (two terms of 45 days). If the initial trial period is 45 days, it may be renewed but only for an additional term of 45 days. A contract may be terminated at the end of the probation period with final pay including normal pay up to the date of termination as well as untaken vacation pay and prorated 13th salary.

Non-compete Clauses in Brazil

Most of our clients request that we add non-compete clauses into the contract which we will do upon request to the maximum extent permitted by law.

Non-compete clauses are not recognized by the Brazilian Labor law, and not well seen by labor courts as a judge will view such a clause as hurting the employee's basic right to work.

However, it is possible to insert a non-competitive clause in the labor contract, considering that:

1. The clauses must be limited to a certain period of time (some of our judges understand that 2 years is the maximum period of time;
2. The restriction must be strictly related to the activities performed by the Employee during the Employment Contract;
3. The Employer must fix a certain geographic area (reasonable) for the applicability of the clause (State of Sao Paulo, for example)
4. The Employee must be indemnified for the whole period she will be prohibited to be hired by other Employers (it is recommended that this indemnification is at least equivalent to her salary during the period of the Employment Contract). This amount will suffer the incurrence of the statutory costs and benefits as does the normal monthly salary.

It is possible to add a sentence in the contract stating that the non-competition clause may be applied or not at the end of the employment contract according to the employer's discretionary need and convenience. The employer would be required to give written notice to the employee in case the clause is waived.

Why Globalization Partners

Establishing a branch office or [subsidiary in Brazil](#) to engage a small team is time-consuming, expensive and complex. [Brazilian labor law](#) has strong worker protections, requiring great attention to detail and an understanding of local best practices. Globalization Partners makes it painless and easy to expand into Brazil. We can help you hire your candidate of choice, handle HR matters and payroll, and ensure that you're in compliance with local laws, without the burden of setting up a foreign branch office or subsidiary. Our Brazil PEO and [Global Employer of Record Platform](#) provides you peace of mind so that you can focus on running your business.

If you would like to discuss how Globalization Partners can provide a seamless employee

leasing or PEO solution for hiring employees in Brazil, please [contact us](#).

[Learn about Brazilian employee categories, travel vouchers, and more.](#)

[Request a Proposal](#)