

END OF SERVICE GRATUITY

Article 132 –

As amended by Federal Law no . 12 dated 29/10/1986 :

The worker having spent one year or more in continuous service shall be entitled to an end of service gratuity upon the termination of his service . The days of absence from work without pay shall not be included in the calculation of the period of service , and the gratuity shall be calculated as follows :

- 1 – The wage of twenty one days for each of the first five years of service .
- 2 – The wage of thirty days for every additional year .

Always provided that the total gratuity does not exceed the wage of two years .

Article 133 –

The worker shall be entitled to a gratuity for the served fraction of a year , provided that he completes one year of continuous service .

Article 134 –

As amended by Federal Law no . 12 dated 29/10/1986 :

Without prejudice to the provisions of certain laws on the pensions and retirement benefits granted to workers in certain establishments , end of service gratuity shall be calculated on the basis of the last wage due to monthly , weekly and daily – paid workers , and on the basis of the average daily wage set forth in Article 57 hereof for the workers getting paid by piece . The wage used as a basis for calculating the end of service gratuity shall not include payments made to the worker in rem , housing , transport and travel allowance , overtime pay , representation allowance , cashier's allowances , children education allowance , allowances for recreational and social services , and any other bonuses or allowances .

Article 135 –

The employer may deduct from the end of service gratuity any amounts due to him by the worker .

Article 136 –

For the purposes of the Article 132 , cases of employment preceding the coming into force of the present Law shall not be deemed cases for which the worker is entitled to an end of service gratuity with the exception of cases involving nationals , and such without prejudice to any rights acquired by the worker by virtue of revoked labor laws , the employment contract or any agreement , regulations or by – laws of the establishment .

In the event of the worker's death , his end of service gratuity shall be paid to the beneficiaries thereof .

Article 137 –

Should the worker bound by an employment contract with undetermined term leave his work by his own choice after a continuous service of one year at least and three years at most , he shall be entitled to one – third of the end of service gratuity set forth in foregoing Article .

Should his continuous service be of three years at last and five years at most , he shall be entitled to two thirds of the said gratuity , and to the full gratuity should it exceed five years .

Article 138 –

Should the worker bound by an employment contract with determined term leave his work by his own choice prior to the expiry of the contract , he shall not be entitled to an end of service gratuity unless the duration of the service period exceeds five years .

Article 139 –

The worker shall be deprived of his end of service gratuity in the following two cases :

a – Should he be dismissed from service for any of the reasons set forth in Article 120 hereof or should he leave his employment in view of avoiding the dismissal therefrom in accordance with the said Article .

b – Should he leave his employment of his own accord , and without notice in cases other than the ones set forth in Article 121 hereof , and such with regards to contracts with undetermined term , or prior to the completion of five years of continuous service with regards to contracts with determined term .

Article 140 –

Should the establishment have a saving fund for the workers , and the rules of the fund stipulate that the sums deposited into the fund on behalf of the worker is in return for the legal obligation with regards to the end of service gratuity , the saved amount or the duly due gratuity shall be paid to the worker , whichever is greater .

Should the rules of the fund not stipulate that the amounts paid by the employer are in return for his legal obligation with regards to the end of service gratuity , the worker shall receive the amounts due to him from the saving fund in addition to the statutory end of service gratuity .

Article 141 –

Should the establishment have a retirement system , an insurance or any similar scheme , the worker entitled to a pension may choose between such pension , the prescribed gratuity or the money entitled thereto from the retirement system or under the insurance scheme , whichever is better .