

# LABOUR & EMPLOYMENT 2019 EXPERT GUIDE

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## Beyond Salary: Salary with benefits leading change

By Inês Albuquerque e Castro

The current business world and the labour market are demanding additional versatility and creativity from managers, forcing them to stay on top of all changes regarding attractive salary packages.

Human resources management is, therefore, an essential player in developing remuneration solutions that go beyond the regular salary, offering a set of attractive benefits that meet the employees' needs at different times in their careers.

However, this challenge becomes increasingly difficult as it requires careful consideration for structuring salary packages, in order to avoid compromising the necessary business balance, flexibility in human resources management or the legal scope of the matter, which can lead to an almost eternal employment relation.

The inherent rules in granting benefits, or just the way they are communicated, are paramount to determine future situations where the company needs to eliminate, reduce or suspend them. The express reference to the possibility of the company unilaterally changing, eliminating or suspending the benefits is very important in the future, since it puts the employee's legal expectation (of receiving the benefits in the future) out of the scope of acquired rights.

On the other hand, and similarly to the retail industry, the management of salary benefits must follow the logic of customer preference: in order to satisfy it, we must know the profile of each employee, understand the traditional generation and the Millennials, their differences and individual preferences. For the traditional generation, the incentives are reflected in the net income or the salary benefits that companies can offer at the end of the month. For the Millennials, more than a "money salary", it is im-

portant to provide an "emotional salary". Thus, companies looking for talent profiles in younger generations, adjust the benefits to the preferences of these generations, for example, by allowing them access to more advantageous mobile communications, the purchase of state-of-the-art electronic equipment, access to sports or flexible working hours. Creative and innovative solutions are highly valued for some age groups.

The challenge of human resources managers to attract and retain talent is thus increasingly complex in a diversified and ever-changing reality such as the labour market. However, the social benefits – provided they are well structured, properly managed and applied – can be leveraged to improve productivity, the quality of life of employees and the organisation, and is still an investment in retaining employees.

Traditionally, Portugal has the following practices:

- **Assignment of company car:** this is a benefit commonly given to middle-upper management, which has benefits to the employees and their household. Contrary to the general idea, the personal use of the company car does not necessarily integrate the tax base for social security, which may represent an advantage. The personal use of the company car must be carefully managed, as it may have consequences for which companies are not prepared and which may bring them future problems when the company needs to change the policy or eliminate this benefit.
- **Meal allowance / meal card:** although the obligation to grant it does not result from the law, but rather from some collective bargaining regulation, these are classic wage com-



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plements due to taxation and social security advantages.

- **Health insurance and pension plans:** the valuation of these benefits, also common and not subject to social security contributions, increases in the exact proportion of the employees' age and is, therefore, unattractive for the younger employees.
- **Mobile and telecommunication services:** the availability of state-of-the-art electronic equipment and access to advantageous telecommunication service packages is being increasingly used by companies seeking talent profiles in younger generations, adjusting their benefits to the preferences of these generations.
- **School checks:** although this solution is losing prominence because it does not benefit from the prior tax exemption, it is still a way to optimise the employee's income by maintaining the exclusion of social security contributions.
- **Stock options:** The discount option for the purchase of stock options is a common practice in multinational companies and amongst senior executives, with the advantage of exempting them from the payment of social security contributions and, up on the sale of the shares, the profit is not classified as dependent working income, but rather as a surplus value.
- **Occasional money awards:** these are alternative ways of retaining and attracting employees because, depending on the allocation frequency and providing, they are not based on pre-established criteria, either general or objective, and may not be subject to social security.
- **Investment in training and education:** a smart compromise between additional salary and the retention of talent, because both the company and the employee are exempt from contributions and, on the other hand, fosters negotiations with employees on non-competition or for retention.

*Inês Albuquerque e Castro is a Partner at FCB since 2017, having joined the firm in 2015 as an Associate Lawyer. Inês coordinates FCB's Employment, Benefits and Pensions Department. She is widely regarded for her advice on general and strategic employment and social security issues and has been recognised many times by the most important international directories (i.e. Chambers & Partners). Inês frequently contributes to various legal publications, having written numerous articles on the subject of labour law in the context of several jurisdictions, namely Portugal, Angola and Mozambique. She is also a regular speaker at conferences, seminars and workshops about labour law.*