



Vietnam

Vietnam Regulation Updates in Response to COVID-19 (As of June 22, 2020)

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1. Introduction

As of the authoring of this newsletter, there have been no new Covid-19 infections in Vietnam for more than two months. Considering this positive turn of events, and Covid-19's significant impact on global finances, Vietnam's government (the "Government") already has begun taking steps toward creating a rehabilitative "post-coronavirus" economic environment within the country. As such, there is little doubt that Vietnam will continue to build upon the positive reputation garnered from its successful containment of the pandemic and attract further interest from global businesses skittish of China's pandemic containment failures and trade war with the US. Accordingly, the Government has lifted some of its restrictive measures and issued rules designed to both assist companies doing business in Vietnam and attract others that may be considering relocation of their production bases. This newsletter builds upon our prior efforts to provide updated information concerning the situation in Vietnam to our readers and to help them understand the relevant legal issues, such as labor, visa/work permits, and taxes, that may assist companies in, or considering entering, the Vietnamese market.

2. Labor

The Ministry of Labour, War Invalids and Social Affairs (MOLISA) issued Official Letter No. 1064 (LDTBXH-QHLDTL) on March 25 providing detailed guidance for employers affected by the Covid-19 pandemic. The concepts expressed in this letter remain in line with those explained in our previous Vietnam newsletter.¹ Essentially, employers who have difficulty arranging adequate utilization of their labor force, due to material shortages or lacking demand, may temporarily shift employees into roles that differ from those

¹ https://www.jurists.co.jp/sites/default/files/newsletter_pdf/en/en_newsletter_200323_2_asia.pdf

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agreed upon in their labor contracts.² If such shifts are not possible and the resultant suspension of operations is deemed likely to continue indefinitely, employers and employees may agree to suspend performance of such labor contracts.³ In this case, they may agree on a wage rate equal to or above the regional minimum wage for the applicable period. However, if employers have to scale down production, and this scaling necessitates a reduction in the number of jobs, they may unilaterally terminate employee labor contracts or implement a lay-off scheme.⁴

MOLISA also issued Official Letter No. 1511 (LDTBXH-BHXH) on May 4 allowing certain types of employers to defer payment of contributions to retirement and survivorship funds for a maximum of 12 months.⁵ In particular, an eligible employer is one which faces among other things, difficulties caused by a natural disaster, conflagration, epidemic, or crop failure. If an employer satisfies one of the following conditions, they may defer payment of benefits for the following periods:

<u>Condition</u>	<u>Period</u>
(i) An employer has failed to allocate jobs for employees, in which, the number of suspended employees who have social insurance is at least 50% of total number of employees before the suspension;	The suspension period shall start from the month when the employer submits the application, but not exceed 12 months.
(ii) an employer has suffered losses due to natural disaster, conflagration, epidemic or crop failure which exceeds 50% of the total value of their assets (excluding land); or	
(iii) an employer has fully paid the social insurances until the end of January 2020, and the number of employees who have social insurance decreased by at least 50% over the period from January 2020 to the application date.	The suspension period shall start from the month when the employer submits the application, but not exceed the period specified in Section II.1.d of Directive No. 11/CT-TTg of the Prime Minister dated March 4, 2020 (i.e., June or December 2020) but must not exceed 12 months.

3. VISAs and Work Permits

Visas

In practice, issuance of new Visas for foreigners is still suspended. However, to encourage employers to resume the ordinary course of business and to spur the Vietnamese economy, the Government has introduced new special procedures for the entry of those foreigners who are investors, technical experts, high-skilled workers and business managers (“Exempted Workers”) coming to Vietnam, provided that entry approvals (other than Visas) are obtained and applicable preventive measures (such as 14-day-quarantine period) are implemented in accordance with the procedures issued by the Government Office and the National Steering Committee for COVID-19 Prevention and Control.⁶

² According to the Article 31 of Labour Code, during such temporarily period, the employee shall be paid a wage appropriate to the new job (if the wage of the new job is less than that of the previous job, the employee is entitled to receive the previous wage for 30 working days) as long as the new wage is not less than 85 percent of the previous wage and the statutory minimum wage.

³ Article 32 of Labour Code.

⁴ Article 38 and 44 of the Labour Code.

⁵ Section III.1 of Resolution 42/NQ-CP dated 09 April 2020: Official Letter No.1511/LDTBXH-BHXH

⁶ Notification No. 182/TB-VPCP dated 15 May 2020 and Official Letter No. 2847/CV-BCD dated 23 May 2020. For reference purposes only, it is reported unofficially that HCMC DOLISA appears to have temporarily suspended the process for unknown reasons.

Work Permits

In general, issuance of new work permits is still suspended, but renewal of existing work permits is possible subject to satisfaction of certain requirements; for example, not having left Vietnam since February 1, 2020 and possession of a health check certificate dated of or after February 11, 2020.⁷ Additionally, though no official letter has been issued yet, it appears that both the Ho Chi Minh City Department of Labour, War Invalids and Social Affairs (DOLISA) and Hanoi City DOLISA have begun accepting new work permit applications for expats who currently reside in Vietnam. On the other hand, for expats who are still overseas, Hanoi City DOLISA has resumed the procedures for work permits while Ho Chi Minh City DOLISA has not.

As the Government is keen to incentive economic activity by Exempted Workers, the policies affecting Visas and work permits change constantly, so please remain up to date with our alerts.

4. Tax

The Government issued Decree 41/2020/ND-CP⁸ to defer payment of value-added tax (VAT), corporate income tax (CIT), personal income tax (PIT) and land rental⁹ for taxpayers such as companies, individuals, and business households (doing businesses in certain industries) who have been adversely affected by Covid-19.¹⁰ In particular, the VAT, CIT and land lease payments of such taxpayers shall be deferred for the periods specified below, provided that an application for the deferral is submitted to the tax authority no later than July 30, 2020:

VAT (excluding import VAT):	five month payment deferral for: - VAT payable in March, April, May, and June 2020 - 1st and 2nd quarter (2020) VAT payments, if declared on a quarterly basis
CIT	five month payment deferral for: - outstanding 2019 CIT finalization amounts (if not already paid) - CIT payable as of the 1st and 2nd quarters of 2020 -- if the company has already paid the 2019 CIT finalization amount, it will be allowed to offset the CIT with other payable taxes -- if an SME (small and midsize enterprises), 2020 CIT reduced by 30%
Land lease	five month payment deferral for: - payments from May 31, 2020 of those companies with annual State land leases -- land rent due in 2020 reduced by 15 %

According to news reports, Vietnam's congress approved a proposal from the Ministry of Finance to reduce CIT applicable to SME (with 2020 sales of VND200Billion or below and fewer than 100 employees) from 20% to 14%.

⁷ Guided by HCMC DOLISA under its OL 9544/TB-SLĐT BXH.

⁸ Decree No. 41/2020/ND-CP dated 08 April 2020 regulating the extension of tax and rental payment, corrected by Official Letter No. 132/CP-KTTH of the Government dated 10 April 2020.

⁹ Before the Decree 41, Official Letter No. 897/TCT-QLN dated 3 March 2020 confirming the legal framework for enterprises to defer tax payments or seek exemption from late payment interest due to COVID-19.

¹⁰ For example, is it limited to taxpayers who have production activities in the industries of agriculture, forestry and aquaculture; food production and processing; textile; costume production; production of leather and related products; production of wood and of products of wood and cork, except for furniture; production of products of straw and plaiting materials; production of paper and paper products; production of rubber and plastics products; production of other non-metallic mineral products; production of basic metals; machining; treatment and coating of metals; manufacturing of electronic products, computer and optical products; manufacturing automobiles and other motor vehicles; production of furniture; construction; and so forth. We recommend that taxpayers who would like to defer, first confirm whether they are eligible or not.

5. Others

On June 9, 2020, in the Government's meeting on prevention and control of Covid-19, the Prime Minister approved re-opening discotheques and karaoke establishments, the last two business activities suspended as a result of Covid-19, and instructed the Ministry of Public Security and relevant authorities to control the operation of such businesses. Therefore, at the moment, there are no businesses in Vietnam under restrictions resultant of the Covid-19 pandemic. Additionally, the Prime Minister assigned a Steering Committee to determine a “safe-zone” process for re-opening international airlines routes.¹¹

Although Vietnam successfully managed to contain Covid-19 and moved toward taking rehabilitative steps, businesses have suffered severe economic damages. In response, the Government has introduced financial benefit packages to assist companies and individuals doing business in Vietnam in hopes of spurring its economy. As the situation changes daily, please check-in with us on a regular basis for any legal updates related to business in Vietnam.

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¹¹ Notice 203/TB-VPCP dated 10 June 2020