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GMS Flash Alert

Immigration Edition

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Vietnam – COVID-19: Immigration, Tax/Social Security, and Income Support Measures

Vietnam's government has taken considerable steps to help prevent and control the spread of the coronavirus and COVID-19 in the country. Such steps include curtailing cross border and internal travel, social distancing, stay-at-home and quarantine policies, school closures, and the suspension of new visas and work permits.[1]

The government declared COVID-19 a nationwide pandemic on 1 April 2020, and applied social distancing with different levels for 22 days from 1 to 22 April 2020.

The above measures, together with the global crisis due to the spread of COVID-19, seriously affected the local economy, especially the tourism and manufacturing sectors. To dampen the economic impact, the government recently introduced multiple incentives in the form of tax, insurance, land-use fee deferment, and interest rate cuts for the benefit of affected businesses.

WHY THIS MATTERS

The Resolutions and other government measures should help mitigate the economic and financial effects felt by employers due to the coronavirus and COVID-19 crisis in the country and to bring relief to such employers as they continue to struggle to survive economically and commercially in this challenging environment.

The relief (full or partial) in respect of social security contributions may be welcome news to employers as it offers them an opportunity to preserve their cash flow and allows additional time to organise their social security affairs and meet their compliance obligations in this difficult period.

Further, the loosening of the rules that had limited cross-border travel and the restoration of many of the country's immigration-related services should be seen as encouraging signs that multinational organisations can consider making plans to bring/send foreign employees into/to Vietnam.

Context

On 10 March 2020, the government promulgated Resolution No. 28/NQ-CP directing the ministries to join the battle against the COVID-19 epidemic and propose measures to respond to the economic and social effects of COVID -19 in Vietnam.

On 10 April 2020, the Prime Minister officially signed Resolution No.42/NQ-CP setting out a social security package of up to VND 62 trillion (approx. US$2.66 billion) to support individuals and businesses directly affected by the COVID -19 epidemic.

Now, some travel bans are being loosened in the interest of supporting business continuance of the Foreign Directed Invested ("FDI") projects in Vietnam, a very important element of Vietnam's economic engine.

Following the above Resolutions, the competent authorities issued detailed guidance on implementing the directives in the Resolutions, specifically with respect to the delay of collections of tax, land-use fees, and social security and trade union contributions.

Vietnam's central bank, the State Bank of Vietnam, has also cut interest rates from February 2020 and has asked commercial banks in the country to lower their interest rates.

Visa Issuance and Entry Approval for Special Cases

In the recent draft Resolution on additional measures to support businesses responding to the COVID-19 pandemic, the Vietnamese government has eased its travel ban measures. We highlight some of these revised policies below.

1. Foreign experts, managers, and technical labour tied to FDI projects may enter Vietnam for business continuance, subject to special immigration procedures to be applied by the Ministry of Security, Ministry of Defense, and Ministry of Health;

2. The Ministry of Labour, Invalids, and Social Affairs will extend Work Permits for current foreign experts, managers, highly-skilled technicians working for FDI projects, and issue new work permits for new foreign experts, managers, and highly-skilled technicians coming to Vietnam to replace those who cannot or do not return to Vietnam;

3. The provincial People's Committee in the locality where the project or enterprise is located: within three days from receiving the request for approval from enterprises, will respond to the enterprise/project and simultaneously will inform (i) the immigration authorities (Security or Defense authorities) where the foreign labour will enter through the particular border post; (ii) the provincial People's Committee in the locality where the foreign labour will enter for purposes of co-ordination, supervision and support tied to quarantine.

4. Foreign labour that is allowed to enter will be subject to concentrated quarantines (government-managed quarantine areas, not self-quarantining at home) under the supervision of the local government and health authorities. After quarantine, such foreign labour will still be subject to the supervision of the health authorities where they work within regulated periods.

Once it is released, the final Resolution should ease the current difficulties faced by the FDI projects in terms of bringing in foreign workers required to complete these projects.

While waiting for the final Resolution to be released, visa issuance and entry for special cases of foreigners who are deemed experts, managers, and highly-skilled technicians can still be considered. The procedures for visa issuance/ entry approval are as follows:

Step 1: The Vietnam sponsor company is to submit the request letter to the Government Office[2] to request approval for entry;

Step 2: Based on the approval of the Government Office, the Vietnam sponsor is to send the request letter to the Ministry of Police to ask for entry approval or visa issuance (in case the visa is yet to be issued) and send the letter to the Ministry of Health to ask for guidance on medical checks and quarantine requirements;

Step 3: After receiving all the approval letters from the three authorities, the Vietnam sponsor company will send a notification letter to the People's Committee of the destination/host location to arrange for the individual's quarantine.

Inbound/Returning Vietnamese Citizens

In addition to the above, Vietnamese citizens overseas who wish to return to Vietnam must obtain all of the following documents to be accepted for entry:

1. Approval letter from the Ministry of Foreign Affairs;
2. Approval letter from the Ministry of Health;
3. Approval of the Committee of Pandemic Defense;
4. Approval letter from the People's Committee of the city/locality that is going to receive them.

Vietnamese citizens can contact the Vietnam Embassy where they live to ask for guidance and assistance in obtaining the above-mentioned documents.

KPMG NOTE

For foreign workers, currently the most important issue is to obtain the approval in Step 1. They should be a key person in a project vital to Vietnam for the Government Office to consider approving the request.

Although still very restrictive, this will be the first step in opening Vietnam's borders to foreign workers

Temporary Suspension of Social Security Contribution

Following Directive No.11/CT-TTg dated 4 April 2020, regarding the government's solutions to support enterprises affected by COVID-19, the Social Insurance Authority, the Department of Labour, War Invalid and Social Affairs, and the Department of Finance, on 24 March 2020, jointly issued Guidance No. 882/HDLN-BHXH-LDDTB&XH-TC providing guidance on the temporary suspension of contributions to the pension and death benefit funds.

Agencies, units, and organisations (so-called "enterprises") that operate in passenger transport, hospitality, food and drink, and other business sectors affected by the pandemic that have had to lay off employees – including at least

50 percent of the total number of employees who had social insurance before the business suspension or their lay-off -- or lose more than 50 percent of their total assets (excluding land), are entitled to interest-free suspension of their contributions to the pension fund and death benefit fund until the end of June 2020. This may be extended until the end of December 2020, depending on the situation with respect to COVID-19 in Vietnam.

Therefore, the above enterprises are entitled to a temporary suspension of their contribution of 22 percent of the salary base (in which the employer contributes 14 percent and the employee contributes 8 percent of salary base) for the pension and death benefit funds starting from the month the enterprise submits its completed application for suspension to the competent authorities.

The remaining contributions to the sickness, maternity, occupational accident, occupational disease, health insurance, and unemployment insurance funds (at 7.5 percent of salary base for contributions by the employer and at 2.5 percent of salary base for contributions by the employee) are still required to be contributed to the Social Insurance authority.

At the end of the suspension period, the enterprises will have to fulfil their contribution obligations vis-à-vis the pension and death benefit funds.

In addition, the Insurance authority – which can carry out routine compliance inspections as well as inspections due to violations – has announced that unless there has been a violation of the insurance regulations, it will not be carrying out insurance inspections at the affected enterprises.

KPMG NOTE

Enterprises entitled to pension and death benefit contributions suspensions should strictly follow the guidance in Guidance No. 882 above to apply for the suspension.

Note that during the suspension period, enterprises are still required to fulfil their obligations to complete and submit a social insurance declaration as usual.

Temporary Suspension of Contribution to Trade Union

On 18 March 2020, the Vietnam General Labour Federation announced in Official letter No.245/TLD that enterprises affected by COVID-19, such that they have laid off at least 50 percent of the total number of employees who were subject to social insurance contributions before the lay-off or business suspension are entitled to a Trade Union contribution deferment for six months from 1 January 2020 to 30 June 2020. Depending on the development of COVID-19 in Vietnam, the Federation will consider an extension of the deferment until 31 December 2020, if the pandemic has not been brought under control as of 30 June 2020.

Currently, the Trade Union contribution is required for all enterprises regardless of whether the enterprise has established a Trade Union at their enterprise or not. The contribution rate for employers is set at 2 percent of the salary base for the Social Insurance contribution.

At the end of the suspension period, these enterprises will be required to fulfil their obligations to pay their Trade Union contribution to the Trade Union Fund.

KPMG NOTE

The eligible enterprises shall be determined by the Provincial Labour Confederations, National Business Industry Trade Union, and equivalent/Trade Union of the State Incorporations directly under the control of the General Confederation of Labour.

During the payment deferral period, enterprises are still required to comply with statutory reporting and declaration obligations.

Other Measures to Support Labour Affected by COVID-19

Compensation Support

On 25 March 2020, the Ministry of Labour, Invalids and Social Affairs issued official guidance No. 1064/LDTBXH-QHLDTL on the settlement of compensation and benefits for employees during the work suspension period, including:

(i) foreign employees who have not been allowed to return to work at the enterprises during the pandemic;

(ii) employees subject to quarantine as requested by the competent authorities;

(iii) employees who must suspend work due to the enterprise or its departments ceasing operations due to other employees not returning to work at the competent authorities' request;

(iv) enterprises having difficulties as the pandemic has affected their material sources of supply and their markets, which could lead to a reduction in production and an inability to provide appropriate jobs for employees.

Specifically, for those employees under categories (i), (ii), (iii), the compensation is as mutually agreed between the employees and the employer**,** but not lower than the minimum regional salary stipulated under the relevant regulations. For employees under category (iv)**,** depending on the actual circumstances, the employer may consider:

a) temporarily assigning the employees to perform other jobs not stated in the labour contracts; or

b) suspend the labour contracts; or

c) reorganise the workforce according to the relevant provisions of the Labour Code.

Tax Payment Deferrals

On 8 April 2020, the government officially issued Decree 41/2020/ND-CP to extend the timeline for the payment of Corporate Income Tax ("CIT"), Value Added Tax ("VAT"), Personal Income Tax ("PIT"), and land rental for specified months for eligible taxpayers who are economically impacted by the pandemic. Specifically related to PIT, those individual businesses and household businesses affected by COVID-19 under specific sectors are entitled to a PIT payment deferment until 31 December 2020. The PIT declaration, however, is still required as per usual.

KPMG NOTE

Businesses should strictly follow the guidance of the above regulations to determine whether they are entitled to the incentives and prepare proper eligibility documentation as per the guidance for future audit by the competent authorities.

Consultation with a professional tax adviser is recommended, as the rules are complex.

FOOTNOTES:

1 For updates (in English) on measures introduced and activities related to the fight against COVID-19, see the website for the government of Vietnam at: http://chinhphu.vn/portal/page/portal/English .

For some basic information on measures taken by the Vietnamese government to combat COVID-19 and some joint U.S.-Vietnam efforts related to the COVID-19 crisis, see this webpage of the U.S. Embassy in Vietnam: https://vn.usembassy.gov/u-s-citizen-services/COVID-19-information/ .

2 The "Government Office" is a Ministry-equal authority that supports the government and the prime minister.

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New Article in *Mobility Matters*!

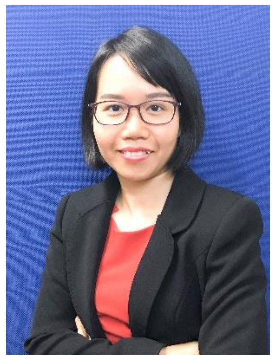
"COVID-19 – Potential Impact on Expatriate Travel and Tax Costs"

By Melissa Duffy and Carolyn Chambers, KPMG International member firm in South Africa

So much is changing every day as the impact of COVID-19 transforms the way we live and work. With travel restrictions, travel bans, border closures, "stay at home" and "shelter in place" policies, implemented to stem the spread of COVID-19, business patterns and employee work routines, and places of work, have been turned on their heads. As Carolyn Chambers and Melissa Duffy, KPMG professionals in South Africa, explain, this could lead to immigration status disruptions and increased tax costs. Read the article.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Vietnam:



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***** *Please note that KPMG LLP (U.S.) does not provide any immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Vietnam.

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